EXHIBIT N

GONZALEZ -V- COUNTY OF SUFFOLK

JAMES SCIMONE - 1/5/2011

CONDENSED TRANSCRIPT AND CONCORDANCE PREPARED BY:

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                                 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
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                                PATRICIA GONZALEZ and JENNIFER GONZALEZ, individually and as Jo-administrators of the Estate of KENNY LAZO, Plaintiffs,
                           Plaintiffs,

- against -

COUNTY OF SUFFOLK, SUFFOLK FOLICE DEPARTMENT, POLICE COMMISSIONER RICHARD DORMER, in his individual and official capacity, POLICE OFFICER JOHN NEWTON, in his individual and official capacity, POLICE OFFICER JOHN NEWTON, so individual and official capacity, POLICE OFFICER HILLIAM JUDGE, in his individual and official capacity, POLICE OFFICER CHRISTOPHER TALT, in his individual and official capacity, POLICE OFFICER CHRISTOPHER TALT, in his individual and official capacity, POLICE OFFICER LINK, in his individual and official capacity, COUNTY OF SUFFOLK OFFICE OF DISTRICT ATTORNEY, SUFFOLK COUNTY DISTRICT ATTORNEY THOMAS SPOTA, in his individual and official capacity, ASST. DISTRICT ATTORNEY JOHN B. COLLINS, in his individual and official capacity, and "JOHN AND JANE DOES 1-10" representing as yet unknown and unidentified members of the Office of the Suffolk County District Attorney (all in their individual and official capacities as employees of the Office of Suffolk County District Attorney, Defendants.
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                                                                                                                       100 Federal Plaza
                                                                                                                      Central Islip
  17
                                                                                                                    January 5, 2011
10:15 a.m.
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                                                                    Deposition of the Defendant, SGT.
20
                            JAMES SCIMONE, pursuant to Notice, before
21
                            florence Syskrot, a Stenotype Reporter and
                            Notary Public of the State of New York.
22
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     APPEARANCES: (Continued)
     ALSO PRESENT:
  5
         P.O. William Judge
  6
         Det. Christopher Talt
  7
         Det. John Newton
  8
         Sgt. James Scimone
  9
         Jennifer Gonzalez (at times)
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APPEARANCES:

LAW OFFICES OF FREDERICK K. BREWINGTON

4 Attorneys for Plaintiffs

556 Peninsula Boulevard

Hempstead, New York 11550

BY: FREDERICK K. BREWINGTON, ESQ.

- and -

9 WILLIAM GERMANO ESQ.

11 SCHOENFELD, SCHOENFELD & PINCUS, P.C.

12 Co-Counsel for Plaintiffs

999 Walt Whitman Road

Melville, New York 11747

15 BY: DAVID A. PINCUS, ESQ. (At times)
16

SUFFOLK COUNTY ATTORNEY CHRISTINE MALAFI, ESQ.

18 Attorney for Defendants

100 Veterans Memorial Highway

Hauppauge, New York 11788-0099

BY: RICHARD T. DUNNE, ESQ.

IT IS HEREBY STIPULATED AND AGREED by and between the attorneys for the respective parties herein, that the filing, sealing and certification of the within deposition be waived.

IT IS FURTHER STIPULATED AND AGREED that all objections, except as to the form of the question, shall be reserved to the time of the trial.

IT IS FURTHER STIPULATED AND AGREED that the within deposition may be sworn to and signed before any officer authorized to administer an oath with the same force and effect as if signed and sworn to before the Court.

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1 of 45 sheets

Scimone 1 interpret a nod, or a shrug, or some type of SGT, JAMES SCIMONE, called 2 2 gesture of the head. There is only one person as a witness, having been duly sworn by 3 in here whose head rattles. a Notary Public, was examined and 4 MR. BREWINGTON: That was to you 5 testified as follows: 5 Mr. Dunne. 6 **EXAMINATION BY** 6 MR. DUNNE: I got it. 7 MR. BREWINGTON: 7 In that regard we want to make Q. 8 Please state your name. Q. 8 sure that your response is clear on the 9 Α. Sqt. James Scimone. 9 record. Alright? 10 What is your present address? 10 Q. Suffolk County Police Department, 11 Α. Yes. Α. 11 Q. If you need a break at any point, Third Precinct, 1630 Fifth Avenue, Bay Shore, 12 12 let me know that. We will be happy to 13 New York 11706. 13 accommodate you. The only request that I have 14 Q. Sgt. Scimone, good morning. How 14 is, if there is a question pending, we try to 15 are you? 15 get the question and the answer on the record. 16 Α. Very good. 16 If we can't do that, then the attorneys will Good. My name is Fred 17 Q. 17 work that out. Alright? Brewington. I am the attorney representing 18 18 Α. Yes. 19 the Estate of Kenny Lazo and the legal 19 20 Q. Now, sir, are you currently representatives of that estate. 20 employed? I am going to be asking you some 21 21 Α. Yes. 22 questions today concerning the lawsuit that is 22 Q. By whom are you employed, please? pending in the Eastern District of New York, 23 23 Suffolk County Police Department. of which there may be different subject areas Α. 24 24 How long have you been employed Q. relating to your involvement, your knowledge, 25 25 8 Scimone Scimone 1 1 by the Suffolk County Police Department? as well as general information about you as it 2 2 Almost twenty-three years. 3 Α. relates to the aspects of this case. 3 In those twenty-three years, sir, Q. If at any point you do not 4 4 what is the highest rank that you have understand the questions that I ask, please 5 6 achieved? let me know that. I will be happy to rephrase 6 them so that they are understandable to you. 7 Α. Sergeant. 7 When did you achieve the rank of Q. If you don't hear the question, even though we 8 8 sergeant? are in fairly close quarters, let me know 9 9 A. September 2001. 10 that. I will speak up, or we will ask our 10 Was that as a result of taking a 11 Q. court reporter, who is expert at taking down 11 competitive examination? what we say. She will be able to repeat the 12 12 Α. Yes. 13 question so that you have it squarely before 13 Q. Had you taken the sergeant's 14 you. 14 examination more than once? 15 If you do respond to a question, 15 I am going to assume that you have heard the Α. Yes. 16 16 Q. How many times did you take the the question and that you understand the 17 17 sergeant's examination? 18 question. So it is important that you have 18 Α. Three times all together. the question squarely before you before you 19 19 For any of those three times, Q. 20 are responding to the question. Alright? 20 21 were you --Α. Yes. 21 MR. BREWINGTON: Withdrawn. Q. As you just did respond verbally 22 22 For each of those three times, Q. to that inquiry, I will ask you to respond 23 23

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verbally to each of the questions that I ask.

It is difficult for the court reporter to

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Α.

were you placed on an eligible list?

Yes.

Q. You said that was in the beginning. Did that change at some point?

Α. Yes.

Q. How did it change, please?

I was transferred about six years, five years later to the Police Academy, where I was an Emergency Vehicle Operations Instructor to do the police driving. I was also cross trained as a Fire Arms Instructor.

Were you providing firearms

Q. instruction to persons who were in the academy

remember was Field Training Officer. That is 15 the only one that I can remember. 16

17 At the time that you were transferred to the Third as a Patrol Sergeant, 18 could you please describe what your duties 19 20 were as a Patrol Sergeant?

Α. Initially I was -- as a new sergeant basically you do desk duty and you fill in on the road as a patrol supervisor on the road.

I was fortunate enough to get a

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Q.

Sir, I'm going to place before

you what we have now identified as Scimone 1

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Α.

Q.

That call -- did you receive any

Scimone 1 anyone else prior to coming in contact with 2 Kenny Lazo about pulling over a car? 3 Immediately before I was in radio

contact with him when I switched to Detective. But earlier in the evening Detective Talt called me to ask if we could be in West Islip in case they needed help.

At that time who was your Q. cellphone carrier?

> Verizon. Α.

Α.

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MR. BREWINGTON: At this time RQ pursuant to Rule 34 we call for the production of any cellphone records as they may exist for this sergeant on or about April 12th, starting from about 3:00 in the afternoon up and through the 13th of April 2008.

If the documents do not currently exist and cannot be had by any reasonable attempts by the defendants, we ask for the identifying information so that we may appropriately subpoena that information from the Verizon carrier.

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Scimone

MR. DUNNE: That is fine. Put that in a written demand for me.

MR. BREWINGTON: No problem. You will get that too when the transcript comes. There will be a request in the transcript.

Q. Now, sir, after you received this call from Detective Talt, what did you do?

I had received it earlier in the evening. It wasn't immediately before we headed over there.

Q. Okav.

But I think he had given us an Α. 14 approximate time that we should head over 15 there. So we started over towards West Islip. 16 We were in Central Islip. We being myself and 17 Officer Judge. Officer Judge was driving the 18 police vehicle. 19

Q. When you said that you had 20 received a call earlier in the evening, how 21 22 much earlier, that being prior to 8:05, if you can approximate, please? 23

I don't recall. I would have to Α. say within the hour. But I don't know exactly Scimone

2 when.

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At the time that you did receive Q. 3 the call, what was it that Detective Talt said to you, as best as you can recall?

As best I recall is he asked if we could be in West Islip in case they needed help.

We work with them often. We know the way they operate. And we are available, unlike Patrol who have to answer calls. That is why he asked the COPE guys to help him.

When you say work with them and Q. available to them, what do you mean?

They are plainclothes detectives. 16 They cannot pull cars over too easily. You like to have a marked car do that. So they ask uniformed officers to do that. They cannot always get a sector car to do that, 19 because they are busy. If we can help them, 20 21 we do that.

Would it be accurate to say that Q. at 6:00 or 7:00, whenever the time was that it was called, it had already been predetermined that Kenny Lazo was going to get pulled over?

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Scimone

Not Kenny Lazo. They knew they 2 Α. were working there. And I don't know what their mission was that night. But they said they may need help that night. So I said, We 5 would be available. 6

Q. The help that they were asking 7 for was going to be to pull over a car? 8

Possibly to pull over a car. It Α. 9 10 could have been something else.

Sir, did they inform you where Q. and when?

They just said, In West Islip. Α.

14 Q. Did they inform you about what 15 time?

> A. They said later.

Q. You said earlier that they called you on the cellphone to talk about possibly pulling over a car. Any other possibilities that were mentioned during that conversation?

They said they may need help. It Α. could be pulling over a car. It could be 22 going to a house. It could be anything. They said, Can you be in West Islip if we need you? And I said, Yes.

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and Talt saying they had a car -- they were observing a car that they might want pulled over. So we were just waiting if they needed 11 help.

Q. 12 At that time you had not seen any 13 car that needed to be pulled over, correct?

Α.

Q. At that time had Detective Newton 16 or Talt indicated to you on the telephone or on the radio any traffic violations that had occurred?

Α. 19 No.

Q. But they had identified a car 20 that they might need to have pulled over, 21

22 correct?

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They said they were following a 23 A. 24 Cadillac, and we should get on the Robert Moses Causeway.

over two lanes of traffic. And he made the right to go to Bay Shore Road. So he made a couple of traffic infractions.

So I asked Detective Newton if he 11 wanted us to stop the car there. So we did. 12

The couple of traffic 13 infractions, did you indicate that the 14 15 Cadillac was in the right lane?

It was in the right lane as it was proceeding to the Southern State Parkway going westbound. And then there is two lanes of traffic that goes towards Bay Shore Road. So he very quickly made the right with his left-turn signal on.

22 Q. Did the car that you were in have 23 video capability?

> A. No.

The car that you were in, did you 25 Q.

Scimone the vehicle. Then as the conversation

proceeded, I just moved alongside to the 3 passenger side. And I was watching, just 4

observing from the passenger side. 5

Q. Did you hear any of the conversation?

Α. No, not really. There was cars going by very loud. I could just see Officer Judge talking.

Q. What is the next thing that

happened? 12

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I remember Officer Judge Α. asking -- I didn't hear him. I could see him gesturing for the operator's license. He asked him to shut the car off. I saw him push the button on the dashboard.

> Q. What year approximately was this

vehicle? 19

Α. 2005. 20

Q. At the time that Officer Judge --21 you said you saw him gesturing to the driver. 22

Did you actually hear any words that were 23

being said by Officer Judge at that time? 24

No. But I have worked with

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Scimone 1

Officer Judge long enough. I know the way he says, I'm Officer Judge. I work in the Third Precinct. He is very cordial when he engages the operator. But I didn't hear specifically what he was saying.

Then after you saw the gestures 7 that you say that you saw, what's the next 8 9 thing that happened?

A. Officer Judge took the license, and the registration, insurance card, and went back to the police vehicle. Then I was on the passenger side. So I walked around the front of the car. And then I just came around to the driver's side, and I started talking to the operator.

Did you engage the operator in Q. conversation?

Just, How are you doing? Where 19 Α. are you coming from? You were going a little 20 bit fast back there. Very casual, nothing 21 specific type of questions. 22

Exactly how fast had the car been 23 Q. going? 24

We paced him approximately 65 25

Scimone

miles per hour. 2

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When you say you paced him, how Q. 3 long did you pace him? 4

> About an eighth of a mile. Α.

Q. At any time while you were pacing

this car for an eighth of a mile, did you 7 report your whereabouts to Command? 8

> Α. No.

Q. At any time while you were 10 11 pulling this car over, did you give Command indication that you were exiting your car to 12 13 make this stop?

> Α. No.

After you were -- you came around Q. 15 to the driver's side, what did Mr. Lazo say? 16

I don't remember specifically. Α.

Do you recall any conversation Q. 18 that he had with you at that time? 19

No. I mentioned his car. I 20 Α. said, It is a nice car. I said, Is it yours? 21 He said, No. It is his friend's car. 22

I was more or less standing there waiting for Billy to come back with the 24 paperwork.

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Scimone

Did you tell Mr. Lazo at that Q. 2 time anything about him being under arrest?

Α.

Q. At that time was he under arrest?

Α. No.

Q. Did he attempt to try and flee at 7 that point? 8

Α. No.

Q. Did he talk to you in a normal 10 tone at that point? 11

> Α. Yes.

Q. Then what happened?

Α. At some point Detective Newton 14 pulled up and parked behind the police 15 vehicle. I saw him pull up. And then I saw 16 Detective Newton speaking with Officer Judge. 17 And then he, Detective Newton came over and 18

spoke with me. 19 20

I walked a little towards Detective Newton towards the back of the car. 21 I mentioned the push button start on the 22 dashboard. And we decided we should ask Officer Lazo -- Mr. Lazo to get out of the 24 car. I didn't know it was Mr. Lazo at the

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Q.

vehicle attempt to flee?

When you stepped back, did the

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car?

get out of the car?

Α.

Was he free not to get out of the

attorney right now?

Sure.

Approximately two-and-a-half to

Α.

Q.

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Q.

around the car in the grassy area to see if I

When you say you drifted away,

saw anything on the floor or anything.

18 exactly what it was. And I saw Detective 19 Newton going back. 20 Just so we are clear, before you 21 said that you saw Detective Newton get thrown

back. You never saw Detective Newton get thrown, did you?

I saw him going back. I don't know if he was thrown back, or struck back, or 22 Judge were standing next to Mr. Lazo, were

23 they on the traffic side of the car or on the

shoulder side of the car? 24

opposite side.

Q.

They were on the shoulder side of

towards the back of the car. And I was on the

As Detective Newton and Officer

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A.

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Α.

Q.

Α.

happened?

No.

What is the next thing that

Mr. Lazo broke away and started

I was just standing there more or

less thinking it was over, that he was going

to put his hands behind his back. And he ran

Scimone running towards the front of the car again.

When you say broke way, please describe what you mean.

Α. He just got away. I can't describe it. It just looked like Billy was letting go. Or he got away from Billy.

Q. When you say --

Α. I can't describe it.

Q. I'm sorry?

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I can't describe it. I just saw him break away and just start running towards the front of the car.

Q. When you say start running towards the front of the car, how many steps, if any, did he take?

> A. I'm guessing four, five.

Q. Then after the four or five steps, what happened?

Officer Judge got him again Α. around the waist. And then he kind -- we kind -- Officer Judge kind of tripped him to the ground so that we were towards the front of the Cadillac on the shoulder, nearest the

25 traffic, facing the traffic. And I came

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Scimone

2 around Officer Judge's right side towards Mr. Lazo's right arm. We were all pretty much facing traffic on the shoulder of the Southern State Parkway at Robert Moses.

Q. Sir, at the time that you were facing traffic as you indicated, traffic would have been coming from the rear of the Cadillac towards the front; is that correct?

> Α. Right.

Q. As you were facing the traffic, were you on the grass, or concrete, or some other surface?

Α. We initially started out on the 15 grass. But Mr. Lazo kept pushing me towards the shoulder. Because I was on the closest side of the traffic. I was basically 17 straddling the traffic lane. And I had his 18 19 right side. And we were all facing the 20 traffic. And he kept trying to get away crawling. And I'm just trying to hold onto his right arm. And the whole time he is pushing at me, pushing. And we are moving towards -- I'm on the traffic lane at this point. We are all laying prone. We are all

Scimone

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2 on the ground. Nobody is standing up.

3 Let's go back for a second. At the point that you say that Officer Judge 4

5 engaged or bear hugged Mr. Lazo again, you

said, We were towards the front of the car.

So you moved your location? 7

8 Right. As he ran around the 9 front, we all ran around the front also.

10 When you say ran around the front, you ran toward the front of the vehicle. You didn't run into the street to

13 run --

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14 A. No. But the vehicle -- the Cadillac, we had to run around the front of the Cadillac. We all came down towards the front of the Cadillac nearest the shoulder. 17

18 Q. Just so that I'm clear, when you 19 say you ran around the front, you ran from the 20 rear portion towards the front on the 21 passenger side; is that accurate? 22

On the passenger, and we wound up 23 on the driver's side.

24 Q. So you ran essentially around 25 that way?

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Scimone

2 A. Right.

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Q. You said that Mr. Lazo was either tripped down or taken down by Officer Judge; 5 is that correct?

> Α. Yes.

7 Q. Did you assist in that taking 8 down of Mr. Lazo?

9 Α. No. He went down. And I just 10 went to grab his right arm.

11 When you went to grab his right arm, which hand or hands did you use to do 12 13 that?

14 I had Detective Newton's flashlight. So I basically was grabbing with 15 my left arm. And I had the flashlight in my 16 right. And he was pushing, pushing with his 17 right arm. 18

19 Q. You were grabbing for his arm 20 with one hand?

> Α. Right.

22 Q. While you held the flashlight in

the right hand? 23

> Α. Right.

Q. Just so that I am clear, are you

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7 cell, metal.

8 Q. By three or four cell, you mean 9

three or four D batteries?

A. 10 I believe.

Q. 11 As you reached for Mr. Lazo's

hand with your left hand, which hand was it 12

13 that you were attempting to grab with your

left hand? 14

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Α. His right hand.

Q. Where was Detective --

17 MR. BREWINGTON: Withdrawn. 18 Q. Where was Officer Judge at the

time you were grabbing for Mr. Lazo's left 19

20 hand?

> A. Officer Judge was around his midsection, around the middle of his body.

Q. On top of him?

Α. I think he was more towards his buttocks, but, yeah, on top of him. But, you

7 Q. Well, sir, was it kicking

backwards, forwards, sideways? 8

Α. He is laying down. So I guess he 9 is kicking sideways. 10

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Q. I don't want you to guess.

12 Α. You are asking me to give you an

answer to something that I don't know. 13

14 Q. You can tell me you don't know. 15

Α. I don't know.

16 Q. With regard to this kicking that

17 you did see, when you say you don't know, is

it that you don't recall, or you don't --18

really cannot describe it? 19

> Α. I really cannot describe it.

Q. As this -- as you were grabbing

for his left hand -- his right hand with your 22

23 left hand?

> Α. Right.

25 Q. As you were grabbing for his

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2 right hand with your left hand, where was Officer Newton at the time? 3

> Α. I don't know.

Q. Were you able to grab Mr. Lazo's right hand?

Α. I would grab it and he would break away. And I would grab it again. It was kind of this motion (indicating). He kept pushing back. Because I'm trying to grab him. He keeps throwing the arm towards me and getting it away. So I couldn't grab onto it good, no.

Q. Jus so I'm clear, what you just demonstrated seemed to use two hands. You were still using one hand?

A. No. Boom. It was this arm going back.

Q. I'm talking about your actions.

A. Right. My hand is just trying to grab onto it. I had the flashlight, but I'm using both hands. Although this is here, I can still use my right hand for leverage. I can't grab with it. But I can still try and put my weight on the right arm. So that's

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Scimone

what I'm doing. I'm trying to control that right arm.

Q. You were leaning forward like you are doing now?

Α. I was laying down. I'm laying on the grass doing all this.

Q. You weren't using the flashlight at that time to illuminate anything, were you?

Α.

Q. At that particular time, sir, did you make any efforts to relieve yourself of 12 the flashlight in any way so that you could use both of your hands?

> A. No.

16 Then as you lay on the grass 17 doing as you just described, what was Officer Judge doing?

Α. I just know he was trying to control him. I don't know specifically what he was doing.

Did you have any conversation Q. with Officer Judge at that time?

> Α. No.

Q. Did you have any conversation Scimone

with Mr. Lazo at that time? 2

3 Α. No. I keep telling him, You are 4 under arrest. Give me your hand.

5 Q. Okay. You did say that, You are under arrest? 6

> Α. At that point, absolutely.

8 Q. I am going to ask you to let me 9 finish my question. I know you want to get your information out. I'll give you every opportunity to do that. 11

12 As you were laying on the grass, 13 what words did you actually use in speaking to

14 Mr. Lazo?

15 Α. I was yelling at him, You are under arrest. Give me your hand. I must have 16 17 said it fifty times.

18 Q. Then, whether or not it was one or fifty times, what did you continue to do? 19

20 I keep trying to control his 21 right hand.

After minutes of not being able to control his right hand, I took my flashlight and I struck him in the right wrist in the hand area to try and gain compliance.

Scimone

2 Q. So, you, having that Mag flashlight in this situation hit Mr. Lazo in

the wrist with this metal object, this

5 flashlight?

> Α. Yes.

7 Q. At that time what weapons had

Mr. Lazo deployed, if any? 8

> Α. None.

10 Q. At that time had Mr. Lazo hit

11 you?

12 Α. He kept trying to push me into

traffic. 13

14 Q. Actually not my question, sir.

A. He didn't hit me.

16 Q. So, you struck actually the first 17 blow to Mr. Lazo's wrist, that being between

18 yourself and Mr. Lazo, correct?

> Α. Right.

20 Q. Sir, please describe without 21 breaking anything in here, how hard you struck 22 his wrist.

Α. It was just (indicating), Give me your hand, (indicating) Give me your hand.

MR. BREWINGTON: Indicating

77 Scimone Scimone 1 1 2 closed fist going against the table with words with him until we went to the ground, a reasonable amount of force. other than when I was talking to him by the 3 MR. DUNNE: Whatever that means. 4 car. 4 MR. BREWINGTON: Whatever that Q. 5 When you were talking to him by 5 the car, as I think you indicated that it was 6 means. 6 MR. DUNNE: We can demonstrate just general conversation? 7 7 that at another time. Α. Right. 8 8 Sir, at the time that you kept Q. 9 Didn't curse at you at that time? 9 saying, "Give me your hand, Give me your 10 Α. 10 Q. hand," what portion of the flashlight were you 11 At the time that you claim that 11 using to hit Mr. Lazo? he was cursing at you, did you continue to hit 12 12 Α. The back end. 13 him? 13 Q. Α. That being the cylindrical I was saying, You are under 14 14 arrest, Give me your hand. He would curse, 15 portion? 15 Α. Fuck you, or something to that effect. He Yes. 16 16 Q. would keep resisting. And I would hit him Were you using it in a baton 17 17 fashion or in a jabbing fashion? again and say, Give me your hand. 18 18 A. Baton fashion. 19 When you say, "Fuck you, or 19 Q. By baton fashion I mean using it, 20 something to that effect," I am not quite 20 this cylindrical portion, using the curved 21 sure --21 cylindrical portion to come down on his hand 22 Α. I can't tell you specifically 22 rather than hitting him with the end of the what he said. But he was not compliant. 23 23 24 flashlight; is that correct? 24 Q. How many times did you curse at Α. Yes, that's correct. 25 him, if any? 25 78 80 1 Scimone 1 Scimone Q. How many times did you hit him in 2 Α. I just kept telling him, Give me 2 3 the wrist at that time? 3 your hand. You are under arrest. Α. 4 I don't know. Five or six times. 4 Q. My question to you: How many Q. Š times did vou curse at him? 5 Was Mr. Lazo wearing gloves of Α. Never. 6 any sort? 6 7 A. 7 Q. I don't believe so. You never used any curse words? Α. Q. Was there any cloth or padding 8 8 between the flashlight that you were using and Q. After hitting his hand or his 9 9 his skin? wrist five or six times, what next happened? 10 10 11 Α. No. 11 I just kept getting pushed to the 12 Q. Did Mr. Lazo react audibly to road, I keep feeling myself. And I keep 12 digging in trying to stay on the road. your hitting his hand? 13 13 Staying on the road, my right foot keeps I am remembering him cursing at 14 14 us several times, if that is what you are losing traction. 15 15 referring to. 16 16 Then at some point I heard the Q. Was that five or six times that word gun. And then I said, Shit, this guy's 17 17 he cursed at you? got a gun. So I said, I'm going to try and 18 18 A. He was cursing the whole time. hit him in the back. So I hit him two, three 19 19 20 Q. That was after he was taken to times. It was a long flashlight. I hit him 20 the ground; is that correct? in the back. And I know he was moving his 21 21 Α. head. So I hit him boom, boom, boom. I have Right. 22 22 him two or three times. I don't hear no Q. He didn't curse at any time 23 23 before then, did he? 24 24 shots. So then at that point I dropped the

25

25

Not to me. I didn't have any

flashlight, and I put all my body weight on

25

Q.

Α.

gun in his right hand, correct?

Right.

So, you knew that there was no

Sir, with what level of force, if

22

23

24

25

did Mr. Lazo do?

Α.

to three times as you indicated you did, what

Well, at that point when I let go

85 Scimone Scimone 2 we are not mixing our descriptions, prone is down, and I told Officer Judge -- I said, Just 2 with chest down to the ground; is that hold him. Let's just hold him. And then I 3 yelled to call -- Get out an assist. 4 correct? 4 5 Α. 5 Then Detective Newton -- I didn't Yes. Q. Sir, at the time that Mr. Lazo -know where he was -- ran back to the police 6 6 7 MR. BREWINGTON: Withdrawn. car. I didn't even see him run back to the 7 Q. After you held Mr. Lazo for that police car. I learned later that he ran back 8 8 approximately thirty seconds or so, what's the 9 to the police car to call for help. 9 next thing that happened? I asked Officer Judge where the 10 10 A. Detective Newton came running up, gun was. And he said he was grabbing for his 11 11 12 approached us from the front. I asked if he gun. I said, Just hold on. Just hold him 12 13 got out of the assist. 13 down. He said, They are coming. And 14 We just held Mr. Lazo until 14 Mr. Lazo, I just felt him stop resisting us. Detective Newton came running up. And I asked 15 15 And I said, Now can you give me your hand? if he put out the assist. And he said they 16 16 And he just put his right hand behind his 17 were coming. 17 back. And somebody asked for his left hand. Q. So, you are using your left hand 18 18 We used two separate cuffs to 19 to grab Mr. Lazo's right hand; is that 19 cuff him up. I don't know whose cuffs we correct? 20 20 used. We just cuffed him behind his back. It Α. Yes. 21 21 seems like as soon as we had him cuffed, I saw Q. Which hand was it, if you know, 22 22 police cars heading in our direction. And that Mr. Lazo was allegedly reaching for 23 23 somebody had pulled up on the shoulder. And I 24 Officer Judge's gun? 24 believe it was Officer Link was the first one I didn't know. I just heard the 25 25 86 88 Scimone 1 Scimone 1 word gun. I didn't know if he was reaching 2 there. 2 Q. Sir, at the time that you were for his gun or if Mr. Lazo had his own gun. 3 placing cuffs on Mr. Lazo, did you actually 4 Q. You never saw that happen? 4 5 Α. No. I just had his right arm. cuff him? Q. Α. I don't know who cuffed him. I Then at that time that you were 6 6 think I just took his right arm back, and I 7 holding Mr. Lazo and you yelled out, Get out think somebody had -- I think Billy had a pair an assist, what was Mr. Lazo doing? 8 9 Α. He was just still trying to get 9 of cuffs and Detective Newton had a pair of cuffs. I just more or less guided his right 10 up. And we are just holding him down. He was 10 arm back and held it while they cuffed him. just trying to get up. We are holding him 11 11 And then they took his left arm 12 down, just putting our body weight on him. 12 13 Q. At that point who is hitting 13 back, and they put the two cuffs together. At any time during the 14 Mr. Lazo, if anyone? 14 interaction that you had with Mr. Lazo before Α. Nobody. We are just holding him. 15 15 cuffing him, did you pull at any of his 16 Q. Was Mr. Lazo saying anything? 16 Α. 17 clothing? 17 I don't recall. A. 18 Q. How long did you hold Mr. Lazo 18 No. Did I pull at any of his clothing? No. But it was a fight. And he 19 down in that prone position? 19 was crawling. But no, I didn't pull at his 20 20 Α. I would say less than thirty clothing. 21 seconds. 21 22 Q. 22 Q. Sir, at any time did you -- do He did remain prone the entire you have any recollection of you tearing any 23 time, correct? 2:3

24

A.

Q.

We were all prone.

Prone, just so that we are clear,

24 25 of his clothing?

A.

No.

<u>G</u>	<u> ՀՀՎԵ-Case 2:09-ՏՄ-01</u> 023-ST Document 70-4 File	ed C	1/09/19 Page 25 of 286 PageID #: 2046
	89	\neg	JAMES SCIMONE
.			91 1 Scimone
1	_	- 1	
3		- 1	- Principle to be dolle by a 3010 car:
	MR. BREWINGTON: Withdrawn.		3 A. No. Joe should have took another 4 officer with him.
	Q. Have you ever been hit with a		_
E	, and the first a		Q. Who was the sergeant at that
7			•
8	•		
9		8	- 104 5414 500:
10	and a subsection but	9	
11		10	a. Did you give officer Link any
12	_	11	
13		12	tion a mad too basy trying to get
		13	
14	The or pairs	14	a. I diderstand that you wanted to
15	A. Sure.	15	The state of the state of the year
16	Q. In this situation after you hit	16	A. No.
17	Mr. Lazo, did you ask him if he wanted to go	17	Q. did you give him any such
18	to the hospital?	18	
19	A. No.	19	A. No.
20	Q. Did you make any inquiry of him	20	Q. Who was the ranking officer at
21	about his status?	21	the scene at that time?
22	A. No. I was pretty much just glad	22	A. I was.
23	it was over.	23	Q. That would have been your
24	Q. It was over for you?	24	i l
25	A. Over for me, yes.	25	transported in accordance with regulations?
	90		92
	Scimone	1	Scimone
2	Q. At that particular time that you	2	A. Yes.
3	had Mr or Mr. Lazo was cuffed, once he was	3	Q. Now, sir, at the time that
4	cuffed, what's the next thing that you did?	4	Mr. Lazo was placed in Officer Link's car to
5	A. I just remember standing up. And	5	be transported, did you consciously make any
6	I was covered with dirt and grass. I started	6	assessment of Mr. Lazo?
7	dusting myself off. And I saw Officer Link	7	A. I was just I looked. I saw
8	pull up.	8	him walking. He was still cursing at
9	Q. As you were dusting yourself off,	9	everybody, calling us a bunch of pussies. I
10	what did you do?	10	saw him get into the back of the 314 car.
11	A. I was just standing there. And	11	Q. How did you feel about being
12	Officer Link came out. I remember being	12	called a bunch of pussies?
13	gassed. I had no energy left. I was having a	13	A. I don't care. I worked in the
14	hard time breathing. So I was just trying to	14	jail.
15	get my breath back.	15	· _
16	Officer Link said he would take	16	in the feature of the second
17	him into the precinct. Officer Link, and I	17	you in that regard, was there anything which
18	don't know who else they turned Kenny		prevented you from doing an assessment of
19	Officer Lazo Mr. Lazo and Mr. Lazo got	18	Mr. Lazo, consciously doing an assessment of
20	in the back of the 314 car.	19	him?
21	Q. The 314 car, is that a double or	20	A. Yes. I was trying to get my own
	a solo car?	21	breath. I was gassed. I was tired. We just
<u>]</u> 23	A. It is a single car.	22	had a violent struggle there on the side of
24		23	the road. I was being pushed in traffic the
25	7 - and a co be the		whole time. I was trying to gain my own
L	regulations with regard to transporting a 5 sheets Page 89 to	25	composure.

93 95 Scimone Scimone 1 1 A. 2 Yes. Q. Did you understand that that was 2 Q. With regard to your own part of your responsibility? 3 3 regulations, that being Suffolk County Police I did. But I saw him get up. 4 4 And I saw him walk into the car. The precinct regulations with regard to use of force and 5 assessment of prisoners, you understand that was only two minutes away. 6 I understand. My question, just 7 it was -- the regulations require that he be 7 transported immediately to the hospital, so I have it clear: Did you understand that 8 8 that was part of your responsibility? 9 correct? 9 Α. 10 Α. Yes. 10 Not at that time. Q. Q. Sir, you had done no assessment In light of your understanding 11 11 that as being part of your responsibility, you of him, correct? 12 12 Α. I had no time. wanted -- you didn't do that; is that correct? 13 13 Α. Right. 14 Q. That is not my question. 14 Α. I did no assessment of him, no. Q. What you did instead was try and 15 15 Q. At the time that you were dealing 16 catch your breath, correct? 16 Α. with Mr. Lazo, would you agree, sir, if a Right. 17 17 Q. person has suffered a physical injury, or Now, at the point that Mr. Lazo 18 18 complains of an injury, or has pain, the 19 was taken away by Officer Link, please tell us 19 person shall be transported to a hospital 20 what instructions you gave Officer Link, if 20 21 emergency room? 21 any? Other than take him to the 22 Α. Yes. Α. 22 Q. precinct, that is all I remember telling 23 Sir, is it your testimony that 23 before going to a hospital emergency room, it Officer Link. 24 24 is all right if someone has physical injuries, Q. Did you tell Officer Link at any 25 25 94 96 Scimone Scimone 1 1 for them to go to the precinct first? 2 point, Assess this person that is now your 2 Α. It was a physical injury. I prisoner and see if he needs to be taken to 3 3 didn't think that he was going to die. It was 4 the hospital? 4 Α. 5 a physical injury. 5 No. Q. Q. Sir, he did die, right? 6 At that time you knew that you 6 Α. 7 had already struck this gentleman no less than 7 Yes. Q. Let's go back for a second. Your 8 seven, perhaps as many as eight or nine times, 8 correct? thinking that he was wasn't going to die was 9 what was in your head, correct? 10 Α. Right. 10 He gave me no indication of that 11 Α. Q. After hitting someone with a 11 at the scene. flashlight six, seven, or eight times, would 12 12 13 Q. Sir, I understand that you want you anticipate that they would have no injury? 13 Α. 14 to say certain things. I am going to ask you 14 to answer my question, sir. Q. 15 You would anticipate they would 15 16 Α. Go ahead and ask again. have some injury, correct? 16 I will. What medical school did Q. 17 It was my intention to get him to 17 the hospital, but not immediately. I wanted you go to? 18 18 Α. I didn't go to medical school. him to go to the precinct first. 19 19 Q. Sir, have you done any work in 20 20 Q. I understand, again, that you

21

22

23

24

want to explain that.

My question to you was: Did you

anticipate after Mr. Lazo was struck the

number of times that you say that you struck

him that he would have some injury, yes or no?

21

22

23

24

25

Α.

Q.

Α.

No.

any triage center for traumatic injury?

work with regard to cardiovascular health?

Sir, have you done any evaluative

GON	NZALEZ GASCINA: 09-514-611,023-ST Document 70-4	Filed C	01/09/19 Page 27 of 286 PageID #: 2048
	97		JAMES SCIMONE
1			99 Scimone
2	_	ŀ	
3			- was more worried about billy at
4	medical standpoint?		The state of triben a sara, a just half they
	A. No.		and a man big belief wise 1 in line,
6		1	The second secon
7	and the state of t	[]	a many true it brokers
8		7	
9	•	g	- was there an actual spiant:
10	A. None.	10	
11	MR. BREWINGTON: Let's take a	11	7.5 4 7.54 6 7
12	short five-minute break for a leg	12	, and the days only even working
13	stretch. Then we will come back and	13	
14	continue the questioning.	14	in they told life to take two days
15	(Recess taken.)		- man t mink 2 heeded two days on,
16	Q. Sergeant, at the time that	15	they are the to take the days on:
17	Mr. Lazo was being transported by Officer	16	The state of accurate to say that
18	Link, what did you do?	17	y and the plant loaged to diff one about
19	A. Talked to Officer Judge. He said	18	1 Table 1 Tabl
20	he hurt his hand. So I brought him down to	19	and produced to the mospital.
21	Southside Hospital.	20	
22	Q. Did you go to right to the	21	Q. Sir, can you tell us when for the
23	precinct first?	22	first time after taking Officer Judge to the
24	A. No.	23	hospital did you go back to the precinct?
25	Q. Why did you go directly to the	24	A. After he was treated. I don't
	98	25	know how long that it was.
	Scimone	1	100
2	hospital?	1	Scimone
3	A. I didn't have nothing to do in	2	Q. After who was treated?
4	the precinct, and he said he was hurt. So, I	3	A. Officer Judge.
5	went with Officer Judge to the hospital.	4	Q. Were you present during the time
6	Q. Did you have any injuries that	5	he was receiving treatment?
7	were treated at the hospital?	6	A. No. I went to clean up in the
8	A. Later on I had an injury that I	'.	bathroom. And the security guard asked me if
9	was treated for. Not immediately, no.	8	I could go up to the I think it was ICU
10	Q. At the time that you went to the	10	because they were having a problem with a
11	hospital, did you make any complaints to any	11	family upstairs. So I had to handle a call while I was there.
12	doctors or nurses about any injuries on that	12	_
13	day?	13	Q. Did you see any of the treatment that Officer Judge received?
14	A. Not at that time, no.	14	
15	Q. Did you make any complaints at	15	A. Other than the initial triage,
16	some point later on that day?	16	
17	A. Right.	17	Q. Did there come a time when you
18	Q. Was that after Mr. Lazo was taken	ľ	left the hospital?
19	to the hospital?	18	A. Yes.
20	A. Yes.	19	Q. What hospital was it again,
21	Q. So you realized that you needed	20	please?
2	treatment for injuries after Mr. Lazo was	21	A. Southside Hospital, Bay Shore.
23	taken to the hospital?	22	Q. After you left Southside
24	A. Well, that is when a supervisor	23	Hospital, where did you go?
1	in the precinct asked me if I was all right.	24	A. We went back to the precinct,

Q.

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GONZALEZ -Y- COUNTY OF SUFFOLK
JAMES SCIMUNE 101 103 Scimone Scimone 1 going from the hospital to the precinct, where Gruenfelder? 2 was the flashlight that you had received from Α. 3 Yes. 3 Detective Newton? 4 Q. When Lieutenant Gruenfelder spoke 4 5 Α. I don't know. I don't know if I to you about or asked you about any injuries, how did that discussion come about? had it or if I gave it back to John. I don't 6 Α. know. 7 He just asked if I were okay. 7 Q. O. At some time did you see that Had you told him that you were 8 8 flashlight again? 9 involved with any interaction with Kenny Lazo? 9 I quess he heard about it because Α. 10 Only at Grand Jury. 10 Q. Did you have your flashlight in he asked me about it. 11 11 Q. What did he say? your bag? 12 12 Α. Α. I don't know specifically what he Yes. 13 13 said. 14 Q. Same type of Mag flashlight? 14 Α. Q. No. Did he ask you to reiterate any 15 15 Q. facts relating to the incident? What type of flashlight? 16 16 Α. The same like Officer Judge, He just asked me what happened. 17 17 I just -- I can't say specifically what I small Stinger. 18 18 said. 19 Q. When you got back to the 19 Q. precinct, did you see Mr. Lazo again? 20 I wasn't asking you what you said 20 yet. Did he ask you to reiterate what had Α. No. 21 21 happened at the scene with Mr. Lazo? Q. When you got back to the 22 22 precinct, was Mr. Lazo present? 23 A. He asked, What happened, and are 23 Α. No. vou okav? 24 24 Q. Did you lay out for him what you When you got back to the Q. 25 25 102 104 Scimone Scimone 1 1 precinct, did you have any conversation about 2 2 say happened? what happened with yourself and Mr. Lazo out Α. I spoke to him. I don't know 3 specifically what I said to him. at the scene? 4 4 Α. No. Other than Officer Judge, 5 Then when he said, Are you okay, 5 you indicated that you had some concern with 6 no. your wrist; is that correct? 7 Q. Anybody ask you any questions 7 about what happened? Α. Yes. 8 8 9 Α. No. 9 Q. What did you say? Α. I -- my wrist bothers me, but 10 Anybody ask you at that 10 particular time whether you were injured? otherwise I'm fine. 11 11 Q. Α. Not immediately, no. 12 12 What did he say? Q. Who asked you at some point if 13 Α. He said, Why don't we just get it 13 14 you were injured? 14 checked out just to be sure? Q. Α. I believe it was Lieutenant Then what happened? 15 15 16 **Gruenfelder from Crime Control.** 16 Α. He took me down to the hospital. Q. Q. So the Lieutenant transported you Crime Control does what type of 17 17 work? to the hospital? 18 18 Α. 19 Α. They do plainclothes police 19 Yes. officer work. Q. Was this Southside Hospital? 20 20 Α. 21 Q. Was Gruenfelder at that time 21 Yes. conducting any type of investigation about 22 Q. The same place where you had just (4) 22

Α.

what happened with Kenny Lazo?

Is he from the Third Precinct,

No.

23

24

23

24

25

been previously?

Yes.

How long after having first been

Α.

Q.

1 Scimone 2 at Southside was it that you returned there 3 with the Lieutenant? 4 A. I have no idea. Q. Was it minutes? 5 A. I don't remember specificate 6 A. No. 7 Q. Hours? 8 A. It was at least an hour. 9 Q. How long were you treated at 10 Southside Hospital? 11 A. I would say within an hour. 11 Q. Any others that you recall?	JAMES SCIMON
Scimone at Southside was it that you returned there with the Lieutenant? A. I have no idea. Q. Was it minutes? A. No. Q. Hours? A. It was at least an hour. Q. How long were you treated at D. Southside Hospital? 1	107
3 A. Yes. A. I have no idea. Q. Was it minutes? A. No. Q. Hours? A. It was at least an hour. Q. How long were you treated at 10 Southside Hospital? 3 A. Yes. 4 Q. Who were those officers, pleated at 5 A. I don't remember specificated at an hour. 6 was there. 7 Q. Do you recall any one or any and them? 9 A. I think there was Officer 10 Broderick was there.	
3 A. Yes. A. I have no idea. Q. Was it minutes? 5 A. I don't remember specificate 6 A. No. 7 Q. Hours? 8 A. It was at least an hour. 9 Q. How long were you treated at 10 Southside Hospital? 3 A. Yes. 4 Q. Who were those officers, pleated at a please of the specificate and a please of t	
Q. Was it minutes? 6 A. No. 7 Q. Hours? 8 A. It was at least an hour. 9 Q. How long were you treated at 10 Southside Hospital? 10 Southside Hospital? 10 Who were those officers, please. 5 A. I don't remember specificate was there. 7 Q. Do you recall any one or any 8 them? 9 A. I think there was Officer 10 Broderick was there.	
Q. Was it minutes? 6 A. No. 7 Q. Hours? 8 A. It was at least an hour. 9 Q. How long were you treated at 10 Southside Hospital? 5 A. I don't remember specificate 6 was there. 7 Q. Do you recall any one or any 8 them? 9 A. I think there was Officer 10 Broderick was there.	ise?
6 A. No. 7 Q. Hours? 8 A. It was at least an hour. 9 Q. How long were you treated at 10 Southside Hospital? 10 Southside Hospital? 11 A. Tawas Mark 19 Broderick was there.	
8 A. It was at least an hour. 9 Q. How long were you treated at 10 Southside Hospital? 10 Broderick was there.	-11.y 40110
8 A. It was at least an hour. 9 Q. How long were you treated at 10 Southside Hospital? 10 Broderick was there.	of
9 Q. How long were you treated at 9 A. I think there was Officer 10 Southside Hospital? 10 Broderick was there.	O1
10 Southside Hospital? 10 Broderick was there.	
44	
12 Q. After that time period, what 12 A. I know who was working,	but T
13 transpired? 13 don't recall who was at the hospital.	
14 A. We Lieutenant Gruenfelder 14 Q. What did Officer Broderick, or	
15 brought me back to the precinct. 15 any of the other officers say to you when	
16 Q. When you got back to the 16 saw you in the hospital?	шеу
17 precinct, did anybody ask you any questions? 17 A. He said, They had to call as	•
A. By that time Homicide was already 18 ambulance, and Mr. Lazo was in cardi	
19 there. So I had to prepare a supplemental 19 Q. Why did they come to tell you	
20 report, which is here today. 20 you know?	, 00
21 Q. We will get to that. 21 A. I don't think they came to	h_11
22 Let's go back. When you came 22 me. I think Mark might have been on	
23 back to the precinct after taking Officer 23 ambulance. I know Mark treated him	
24 Judge, were you aware that Mr. Lazo had been 24 precinct. I don't think they came	in the
25 taken to the hospital? 25 specifically to tell me.	
100	08
Scimone 1 Scimone	00
2 A. Yes. 2 Q. Mark who?	
3 Q. How did you learn that? 3 A. Mark Broderick. Officer	
4 A. I heard it on the radio. 4 Broderick. I just happened to be there	a
5 Q. What did you hear on the radio, 5 Q. So you were present at the	=•
6 please? 6 hospital when Mr. Lazo arrived at the	
7 A. I heard them call for an 7 hospital?	
8 ambulance when I was in the hospital. 8 A. Yes.	
9 Q. How long after arriving at the 9 Q. What did you do when they tol	ا ا
10 hospital did you hear them calling for an 10 you that?	۱
11 ambulance? 11 A. I was just in the hallway ta	lking
12 A. I guess about half an hour. 12 to Billy and Mark.	ıA
13 Q. At the time that you heard them 13 Q. Did you see Mr. Lazo at the	
14 calling for an ambulance, did you know that it 14 hospital?	
15 was with regard to Mr. Lazo?	
16 A. No. 16 Q. The hallway that you were in, you	, , , , , , , , , , , , , , , , , , ,
17 Q. Did you make any inquiry of 17 that in or around the emergency room?	vd5
18 anyone about who was in need of an ambulance? 18 A. Yes.	
10 A Tarracia than 11 Harris and 11	oina
20 And I remember being upstairs dealing with 20 treated, in or around the emergency room?	
21 what I was dealing with. 21 A. I think he was in like their	
Then when I came downstairs, 22 trauma room.	
32 those was attended to	
23 Q. Which is right off the emergence what happened. 24 room?	у [
25 Q. So other officers came to the 25 A. Right.	
27 of 45 sheets	1 03:24:02 PM

-	109	1	111	
1	Scimone	1	Scimone	
2	Q. How long did you remain at the	2	Q. With regard to this supplementary	
3	hospital once you learned that Mr. Lazo had	3	report, who typed this?	
4	been brought in?	4	A. I believe I did on the precinct	
5	A. I don't recall. I would say	5	computer.	35
6	about thirty minutes.	6	Q. Did you actually fill out the	
7	Q. Had you learned that Mr. Lazo had	7	boxes for this report?	
8	died before you left Southside Hospital?	8	A. Yes, I believe so.	
9	A. I don't believe so, no.	9	Q. In the box down at the bottom	
10	Q. When did you learn that Mr. Lazo	10	where it says "Founded," tell me, you checked	
11	had died?	11	"Yes," what does that mean?	
12	A. I don't know. I think I was in	12	A. Well, with a death investigation,	
13	the precinct when I found out.	13	the incident and the case status is active,	
14	Q. Who told you?	14	means the detectives are investigating.	
15	A. I don't recall.	15	Q. I said founded.	
16	Q. Was it someone that told you in	16	A. Founded. Any time the case is	
17	person?	17	going to be investigated, it is founded.	
18	A. I don't recall how I found out.	18	Q. You checked that; is that	
19	I don't know if I heard it on the radio. I	19	correct?	
20	don't know if guys were just talking about it.	20	A. I believe so.	
21	I don't remember somebody specifically telling	21	Q. At the time that you were filling	
22	me.	22	this document out, had you received any	
23	Q. At any point did you have any	23	instructions to actually fill this document	
24	discussion with anyone on that day about how	24	out?	
25	you had utilized the flashlight to strike	25	A. I was told by Detective Portello	
	110		112	
1	Scimone	1	Scimone	
2	Mr. Lazo?	2	to prepare a supplementary report.	
3	A. Other than the Homicide	3	Q. Without him telling you to do so,	
4	Detective, no.	4	did you have any intentions of doing so?	
5	Q. Which Homicide Detective did you	5	A. I didn't know what we had to do.	
6	speak to?	6	I was waiting to be told. I didn't know what	
7	A. Portello.	7	we had to do.	
8	Q. When you spoke to the Homicide	8	Q. Other than this supplementary	
9	Detective, that being Detective Portello, did	9	report, have you been required or asked to	
10	the detective take any notes?	10	fill out any other reports concerning this	
11	A. I believe so.	11	case?	
12	Q. Did you actually write a	12	A. The one to Internal Affairs.	
13	supplementary report?	13	MR. BREWINGTON: Let us mark that	
14	A. Yes.	14	now as Scimone 2 for identification.	
15	Q. Is that what we have marked as	15	It is a single-page document,	
16	Exhibit number 1?	16	bearing a date December 17, 2008. It	
17	A. Yes.	17	has at the bottom "Attachment # 26."	
18	Q. At the bottom where it says	18	(Scimone Exhibit 2, Attachment #	
19	"Reporting Officer's Signature," is that your	19	26, marked for identification.)	
20	signature, sir?	20	Q. I'm placing before you Scimone 2	
21	A. Yes.	21	for identification (handing). Do you have	
22	Q. Whose signature is that as a	22	that document?	
23	"Supervisor's Signature," do you know?	23	A. (Perusing.)	
24	A. I believe it is "Lieutenant Ellen	24	Q. This is the form that you filled	
25	Sansone."	25	out for Internal Affairs; is that correct?	
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GONZ	Case 2:09-cv-01023-ST Document 70-4 F	Filed 0	1/09/19 Page 31 of 286 PageID #: 2052 JAMES SCIMONE
	113		115
1	Scimone	1	
2	A. Yes.	2	Q. In your supplementary report
3	Q. This incident happened in April	3	
-4	of 2008; is that correct?	4	
	A. Yes.	5	
6	Q. You were asked in December of	6	
7	2008, that was the first time someone from	7	wound up being the 13th by the time I prepared
8	Internal Affairs asked you to put what	8	
9	happened down in writing?	9	Q. Going over and passed midnight;
10	A. Other than the supplementary	10	
11	report, yes.	11	A. Yes.
12	Q. From April to December of 2008,	12	Q. At the time that you filled out
13	how many times were you questioned by anyone	13	what we have now identified as Scimone 2 for
14	concerning what happened with regard to	14	identification, other than your supplementary report, do
15	Mr. Lazo?	15	you recall having any other documents in front
16	A. Other than that night, I wasn't.	16	of you to review?
17	Q. At any time from April of 2008	17	A. No.
18	through and including December of 2008, were	18	Q. Did you speak with anyone when
19	you asked to provide any statement before a	19	you drafted Scimone 2 for identification?
20	stenographer, such as the court reporter that	20	A. No.
21	we have here?	21	_
22	A. No.	22	
23	Q. From April 2008 to December 2008,	23	Scimone 1 for identification, you reference
24	did anyone ask you any questions where a	24	Officer Judge in this document; is that correct?
25	recording was done, either audio or video of	25	A. Yes,
	114	- 23	
	Scimone	1	116 Scimone
2	you, concerning Mr. Lazo?	2	_
3	A. No.	3	,
4	Q. At the time that you signed this	4	Officer Judge in Scimone 2; is that correct? A. Yes.
5	document, sir, where were you when you were	5	_
6	preparing it?	6	, and a substitution of the substitution of th
7	A. I believe the precinct.	7	identification numbers; is that correct? A. Yes.
8	Q. Did you actually prepare this	8	
	yourself?		
10	A. Yes,	10	Link's identification numbers; is that
11	Q. Did anyone provide you with any		correct? Last paragraph.
	information to help fill this document out?	11	A. Yes.
13	A. There were specific questions		Q. Do you reference Officer Link
	that they wanted addressed that I had to	13	with regard to his identification numbers in
	answer.	14	Scimone 1 at all?
16	Q. In answering these specific	15	A. I don't believe, no.
	questions, what did you rely on to fill in the	16	Q. What did you rely on to obtain
	information?	17	Officer Link's identification numbers, or did
19	_ ***	18	you have them in your head?
19 20		19	A. I had them in my head. I used to
		20	be his supervisor.
	documents to help refresh your memory from	21	Q. So you know his identification
္အေန	April of 2008 to December of 2008?		numbers by heart?
23	A. I would assume. I'm not certain.	23	A. Yes.
	But I would assume I looked at my	24	Q. The same thing for Officer Judge,
	Supplementary report.	25	did you know that by heart, or did you rely on
or 45	Page 113	to 116 o	f 179 01/14/2011 03:24:02 PM

Case 2:09-cv-01023-ST Document 70-4 Filed 01/09/19 Page 32 of 286 PageID #: 2053 JAMES SCIMONE 117 119 Scimone 1 Scimone Scimone 1? 2 looking at Scimone 2 for identification, you Α. I relied on Scimone 1. 3 indicated in the second paragraph, "We became Q. Now, if I may look at this for a 4 involved in a physical struggle with arrestee second. The reference to Mr. Lazo in Scimone 5 Lazo, Kenny 12/30/83 while attempting to 1, do you actually mention Mr. Lazo in Scimone 6 affect a lawful arrest." 1? 7 7 What were you arresting Mr. Lazo A, 8 No. 8 for? Q. 9 But by the time you filled out 9 Α. For assaulting Detective Newton 10 Scimone 2, you knew Mr. Lazo's name, correct? and for trying to flee. 10 Α. 11 Yes. 11 Q. I want to go back now, sir. You Q. 12 Now in not referencing Mr. Lazo 12 actually said you never saw Mr. Lazo actually in Scimone 1, you don't reference Mr. Lazo's strike or hit Officer Newton, right? 13 13 date of birth in Scimone 1, do you? I didn't at the time, right. 14 14 Α. Α. No. 15 15 Q. Detective Newton. At the time Q. Do you reference his date of 16 you had no conversation with Detective Newton 16 birth in Scimone 2? 17 about Mr. Lazo striking him, right? 17 Α. Yes. 18 18 Α. No. 19 Q. Where did you get that from? Did Q. 19 So at that time you did not know 20 you have that in your head as well? of any assault or alleged assault on 20 I must have looked at something Α. 21 Officer -- Detective Newton, correct? 21 else. I don't remember. 22 22 I didn't see him hit him, but I Q. What else did you look at with assumed he did. Yes. 23 23 24 regard to filling out this document? 24 Q. Your assumption is what you were 25 I don't know. Maybe -- I don't 25 arresting him for? 118 120 1 Scimone 1 Scimone 2 know. The activity log. I don't know what I 2 Α. Yes. 3 looked at. 3 Q. In the next paragraph it says, 4 I might have just brought it up "After the struggle I observed an abrasion to 4 5 on the computer to get his date of birth. I the face of Mr. Lazo and I do not recall any 5 6 don't recall what I looked at. other observable injuries." 6 7 Just to go back now, when you 7 Where was the abrasion on said the only thing that you looked at was the 8 8 Mr. Lazo's face that you saw? supplementary report, is that accurate? 9 9 Α. I don't recall. 10 Α. I believe so. Q. 10 That abrasion was an indication Q. 11 So, if that is accurate, where of physical injury, correct? 11 did you get Mr. Lazo's date of birth? 12 A. Yes. Α. I don't recall. I might have Q. 13 It says -- you write "That injury just put his name in the computer to get his 14 14 may have been caused when the subject was 15 date of birth to fill this out. taken to the ground during the struggle or 15 Q. 16 You would have referred to 16 during the struggle itself."

12 13

something in the computer?

Α. It would have just been a license check or something so I could see his date of birth.

Q. 21 Now let's go back to my question.

22 Α. I can't tell you specifically. I 23 don't remember.

Q. I understand that. With regard to this document, you indicated that -- I am Α. Not sitting here today, no.

Do you recall on what side of his

19 Q. 20 When you say it "may have been 21 caused when the subject was taken to the 22 ground during the struggle or during the

23 struggle itself," let's start with taken to 24

face that abrasion was?

the ground. 25 Did you see Mr. Lazo strike his

17

18

19

20

24

17

Α. Scimone 2, no.

Q. In Scimone 2 is there any indication, that being the report to Internal Affairs, that you struck Mr. Lazo in the hand five or six times with a flashlight and then in the back and/or the head two or three times, is that written here?

> Α. No.

Q. Can I just see this, please, Scimone 1?

24 When you filled out the Internal Affairs' report, which is Scimone 2 for

anyone else any instructions to accompany

14 Officer Link?

> Α. Right.

16 Q. You didn't give Officer Link any instructions to get someone else to go with 17 18

him?

15

19

Α. Yes.

20 Q. You did know that Officer Link 21 was a solo car, correct?

Α. 22 Yes.

23 Q. With regard to this document,

after submitting this document on December 17, 24

2008 (indicating), did you have any discussion

31 of 45 sheets

14

15

16

17

18

19

20

21

125 Scimone Scimone 1 that night. This was prepared a little bit with anyone, other than your attorney, about 2 the content of this document? later. 3 3 4 Q. How much later? The Internal Affairs' Lieutenant Α. 4 spoke to me over the phone. Other than that, 5 Α. When I came back to work a wei 5 6 later. 6 7 Q. The date of the report says Q. Was there ever an in-person 7 "4/13." Is that accurate? Internal Affairs' interview with you? 8 8 The date of the incident. That Α. 9 Α. No. 9 was not accurate, because I wasn't there. Q. All done by telephone? 10 10 A. Q. Would it be accurate to say that Yes. 11 11 this document is not appropriately dated? Q. Let's put that one aside for a 12 12 Α. Yes. 13 second. 13 I will ask you to take a look at 14 Q. Had you ever seen this document 14 this document that we will identify as Scimone before today? 15 15 Α. Sure. Yes. 3 for identification. 16 16 Q. When had you seen this document 17 MR. BREWINGTON: Single-page 17 document, has down on the right-hand for the first time? 18 18 Α. I believe at the Grand Jury. side "Attachment # 12." 19 19 Q. At the time that you saw it in 20 (Scimone Exhibit 3, Attachment # 20 12, marked for identification.) the Grand Jury, did you point out or did you 21 21 Sergeant, I will ask you to take note the date of the report was inaccurate? 22 22 I didn't realize, no. 23 A. a look at that document (handing.) Do you 23 Q. So this document was actually 24 have it? 24 back dated? A. 25 25 (Perusing.) Yes. 128 126 Scimone Scimone 1 1 2 Α. No. 2 Q. Can you tell us what this is, MR. DUNNE: Objection. That is 3 3 please? your interpretation of this. He is not Α. 4 Use of Force Report. 4 5 the author of this. 5 Q. Is this a document that you From his perspective, it might be filled out? 6 6 inaccurate. It doesn't mean from the 7 Α. Lieutenant Robert Williams filled 7 author's perspective it is inaccurate. 8 it out. 8 Was Lieutenant Williams present 9 You referenced the entire line of 9 Q. questioning when he spoke to the at the scene when this force was used? 10 10 Lieutenant. Α. 11 11 No. MR. BREWINGTON: I'm sorry. Q. 12 12 Did you speak with him about the Do you know when this document 13 use of force that was used? 13 was filled out, sir? Α. I did, but I don't remember when. 14 14 Q. 15 Α. I didn't fill it out. Was it before or after he filled 15 this form out? 16 Q. I know that, sir. But you didn't 16 speak to the Lieutenant until when? Α. Before. 17 17 Until when I came back to work. Q. Do you actually know -- at the Α. 18 18 time that you spoke with him, you gave him a Q. Which was what date, sir? 19 19 Α. I don't recall. rundown as to what happened? 20 20 It wasn't the 13th, was it? Α. Yes. 21 Q. 21 22 Α. No. So, there was someone else with 22 So with regard to any information whom you did speak about what happened on the 23 Q. 23 from you, this document doesn't contain road: is that correct? 24 24 information which you provided on the 13th, 25 Α. Yes. But this wasn't prepared 25

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		129			131
1		Scimone		1	Scimone
2	right?] :	2 are	maintained but have not yet been
3	A.	Well, the incident summary is	;		duced.
4		the supplementary report. Doesn't	4	‡ Q.	Sir, with regard to
-		my conversation with him.	(5	MR. BREWINGTON: Withdrawn.
6	Q.	Did you have a conversation with	- €	Q .	
7		enant Williams at any time on the	7	' Mr. Lazo	o, do you see that, "Use Of Force
8	13th?		8		Information," right up here
9	A.	I don't recall. I don't know if	٤		
10	he was s	till in the precinct.	10	_	_•
11	Q.	With regard to this document, it	11	Q.	Any traffic, any VTL, Vehicle and
12	indicates	with regard to you that the officer	12	Traffic V	iolations which are cited there?
13	was hospi	talized.	13		No.
14		Do you see that down at the	14	_	
15	bottom rig	ht-hand corner with regard to	15		
16	yourself?	-	16		Let's take a look at this
17	A.	Yes. It just means we went to	17	documen	nt which we will identify as Scimone 4
18	the hosp	ital. It doesn't mean we stayed in	18		
19	the hosp		19		MR. BREWINGTON: Single-page
20	Q.	Thank you for answering the	20		cument that has "Attachment # 13" at
21	question t	hat I hadn't asked yet.	21		bottom.
22		My question to you is: On the	22		(Scimone Exhibit 4, Attachment #
23	13th, was	that the date that you went to the	23		narked for identification.)
24	hospital?	,	24	Q .	I'll ask you to take a look at
25	A.	The 12th into the 13th, yes.	25	•	iment, please (handing).
		130	+=-	Cride doce	132
		Scimone	1		Scimone
2	Q.	With regard to the physical	2	A.	(Perusing.)
3	injury that	you suffered, you said that you	3	Q,	Do you recognize it?
4		to take a couple of days off; is	4	A.	Yes.
5	that correct		5	Q.	What do you recognize it to be?
6	A.	Yes.	6	A.	"Injured Employee Report."
7	Q.	Did you make a request of anyone	7	Q.	Did you fill this document out?
8	to actually	take days off?	8	Д. А.	I just filled out the middle
9	A,	No.	9		mployee's Specific Statement."
10	Q.	Were you ever seen by a police	10	part, L	I don't know who did the report.
11	surgeon co	ncerning your injury?	11	Q.	
12	Α.	Yes.	12		When you say you just filled out
13	Q.	Was that so that you could return	13		e part, where it says "Employee's
	to duty?	· · · · · · · · · · · · · · · · · · ·	14		tatement Of Injury, And
15	Α,	Yes.	15	ie vous se	inces Leading To Its Occurrence," that
		MR. BREWINGTON: At this time we	16	_	rtion that you filled out?
17	-	for any records relating to	17	Α.	Yes.
18		its that Officer Scimone made to	1	Q.	That is your "Employee's
19		ice surgeon from the 12th of	18		" there; is that correct?
20		1008 up to and including the date	19	Α.	Yes.
		eturn to work, and any records,	20	Q.	Could you read into the record
21			21		wrote, please?
3.3		memoranda, diagnostic tests or	22	Α.	"On 4/12/08 at approximately 2020
23 24		conducted by the police surgeon,	23	hours I ir	njured my right wrist during a
		g any notations made in any	24	violent st	ruggle while attempting to arrest a
	portion:	s of any medical jackets which	25	subject a	t I/L."
of 45	sheets	Page 129 t			

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	133		135
1	Scimone	1	Scimone
2	Q. What is I/L?	2	With regard to the photos taken
3	A. It is at incident location, which	3	as pursuant to this report, are you
4	is referred to at the top of the report.	4	saying that it is contained
5	Q. Other than that, did you fill out	5	MR. DUNNE: That is an
6	any other portion of this?	6	assumption.
7	A. No.	7	MR. BREWINGTON: Let me finish my
8	Q. In the area where it says "Name	8	statement. I'm not assuming anything.
9	of doctor treating employee," did you fill	9	My question to you: Are the
10	that information out?	10	scene the photos that you just
11	A. No.	11	referenced are the photos which are
12	Q. Where it says "Sprained right	12	referenced here contained in those
13	wrist," and "left" is crossed out, did you	13	photos? That's all I want to know.
14	fill that out?	14	MR. DUNNE: I don't know. I
15	A. No.	15	don't know what photos they are looking
16	Q. Who did you tell that you had a	16	at. I don't know if there are a
17	sprained wrist?	17	separate set of photographs that were
18	A. I don't recall. Whoever filled	18	taken in connection with this report.
19	this out. I have no idea.	19	My guess is that they were not.
20	Q. Did you ever tell someone that	20	They were referring to photographs that
	you had a sprained wrist?	21	were part of that package. In other
21	A. There was a hospital report.	22	words, ID had one CC number for this
22	• -		incident. And all photographs taken in
23	Maybe it said that on the hospital report.	23	connection with this incident would be
24	But I don't recall telling anybody I had a	24	under that CC. Contained in that, there
25	sprained wrist.	25	136
	Caimana 134		Scimone
1	Scimone	1	= =
2	Q. It also says "Photos are taken."	2	are standup photographs of Sgt. Scimone
3	Do you see that?	3	at the precinct.
4	A. Yes.	4	MR. BREWINGTON: Do we have
5	Q. What photos were taken?	5	those?
6	A. Back in the precinct.	6	MR. DUNNE: I have them in my
7	Q. Of who?	7	office.
8	A. Of me.	8	MR. BREWINGTON: Do we, that
9	Q. Have you seen those photos?	9	being plaintiffs?
10	A. I saw one of them.	10	MR. DUNNE: No.
11	MR. DUNNE: I didn't bring them.	11	RQ MR. BREWINGTON: We are calling
12	The Crime Scene photos and the photos	12	for production of those.
13	taken by Identification has got to be 2	13	And we will reserve our right to
14	or 300 pictures.	14	continue this deposition once they are
15	RQ MR. BREWINGTON: Yes. The good	15	produced.
16	thing is that they are all they can	16	MR. BREWINGTON: Let's take a
17	be digitized.	17	break.
18	I'm calling for their production.	18	(Recess taken.)
19	I don't know why I don't have them.	19	(Mr. Pincus not present at this
20	MR. DUNNE: I indicated to you	20	time.)
21	that I would make them available for	21	(Ms. J. Gonzalez not present at
22	either ordering or copying. And there	22	this time.)
23	was no response.	23	Q. Sergeant, I will ask you to take
24	MR. BREWINGTON: I don't know	24	a look at, please, Scimone 1 again, same
	· · · · · · · · · · · · · · · · · · ·	1 '	the state of the s

25 document.

25

Q.

So, based on accuracy, if this

141 143 Scimone Scimone 1 was filled out after your supplementary report Α. Yes. They are guidelines. 2 2 was submitted, is that accurate? Q. Let me ask you to turn to the 3 3 MR. DUNNE: I'll object to the second page, that being the second back page 4 form of the question. 5 there, that has "52-2." Do you have that? 5 Go ahead. Answer that the best Α. Yes. 6 6 Q. you can. 7 Where it says "VI. Procedure B 7 1." Do you see where I'm referring? The injury we caused was the Α. 8 8 physical injury, yes. 9 Α. Yes. 9 Q. 10 Q. It says "Injury sustained"? 10 It says "Photographs will be taken if a person is subjected to any force, Α. He sustained physical injury. 11 11 Q. including restraining force, or is charged Was he dead? 12 12 A. with Resisting Arrest, whether or not the He had a heart attack, yes. 13 13 Q. Sir, when you say "he had a heart 14 person is injured or alleges injury." 14 Did you understand that to be a attack," it was a death investigation at the 15 15 time, right? procedure that was in place at the time that 16 16 Mr. Lazo was taken into custody? Α. Yes. 17 17 Α. Q. Just looking at that same area Yes. 18 18 Q. with regard to Mr. Lazo, do you know if at any 19 Was that done? 19 point during the time that he was at the Third Α. I told you, I wasn't in the 20 20 Precinct he was examined by any other superior precinct. I don't know if it was done. 21 21 officers, that being sergeants or lieutenants? Q. Sir, but you didn't do it, 22 22 Α. I don't know. correct? 23 23 Α. MR. BREWINGTON: Let's identify 24 24 No. Q. You didn't have anybody do it, this document as Scimone 5 for 25 25 142 144 Scimone Scimone 1 1 identification. It is a four-page 2 2 correct? I wasn't in the precinct. document that we have copied back and Α. 3 3 front. It is entitled "Department Q. That wasn't my question. You 4 4 General Order, Subject, Use Of Physical didn't ask anyone to do it by radio, by 5 5 Force." It starts with Attachment telephone --6 6 7 number 52-1. 7 Α. No. Q. -- or other form? (Scimone Exhibit 5, Attachments # 8 8 52-1 through 52-4, marked for Α. No. 9 9 You didn't tell Officer Link to Q. 10 identification.) 10 Q. Sergeant, I will ask you to take make sure that that was done, correct? 11 11 a look at those pages (handing). Α. No. 12 12 Α. (Perusing.) Q. Is that correct? 13 13 Q. Have you had a chance to look at 14 Α. Correct. 14 Q. If you go onto the next page 15 that? 15 where there is a reference to "The Precinct Α. Yes. 16 16 Crime Section or Crime Scene Section will take Q. Are you familiar with what these 17 17 pages are? the photographs, whenever possible. Digital 18 18 cameras or 35 mm. film cameras will be used." Α. Yes. 19 19 Q. Was the Precinct Crime Section What are they, please? 20 20 Α. General guidelines pertaining to involved in the arrest of Mr. Lazo? 21 21 Α. the use of force. No. 22 22 You refer to them as general 23 Q. Going down to number 4 on this 23 document where it says, "The photographs of guidelines. Are these part of any rules or 24 24

procedures that you are supposed to follow?

the person subjected to force will be

that at that time this was an investigation

that dealt with Mr. Lazo's death?

23

24

25

Q.

records relating to Mr. Lazo?

Set it aside then now.

Did you ever see any hospital

149 151 Scimone Scimone 1 right or left side? 2 Α. No. 2 Q. Α. I think I already testified that Did you ever learn what type of 3 3 the only abrasion I recall seeing was the one injuries were on Mr. Lazo's body? 4 A. Not specific, no. on his face. 5 5 Q. Q. Have you ever seen the autopsy in 6 Did you see any on his ear? 6 Α. this case? 7 No. 7 Q. How about on his right and left Α. 8 No. 8 Q. Let me ask you to take a look at 9 neck? 9 this document that we are going to identify as 10 Α. No. 10 Q. How about his right back, did you Scimone 7 for identification. 11 11 ever see any injuries there? MR. BREWINGTON: It has no 12 12 Α. No. identification numbers on it. But it is 13 13 a multiple page document that begins 14 Q. You hit him in his back, though, 14 with "Report Of Autopsy" as listed on 15 right? 15 Α. Yes. the front. And the very back page is a 16 16 Q. How about his left back, did you signature page containing the signature 17 17 of "Yvonne I.," the last name is ever see any hemorrhages on his left back? 18 18 "Milewski, M.D." 19 Α. 19 Q. 20 You indicated that you hit 20 (Scimone Exhibit 7, Report Of Autopsy, marked for identification.) Mr. Lazo's right wrist, correct? 21 21 Α. Would it be accurate to say that 22 Yes. 22 Q. as you look at it very quickly, you have not 23 Do you see where there is a 23 reference to "Injury acute hemorrhage without 24 seen this autopsy report before, correct? 24 active inflammation" on his "Left wrist"? I have not seen it before, no. 25 25 152 150 Scimone 1 Scimone 1 Was it ever read to you in any Α. Yes. Q. 2 2 Q. Did anybody ever tell you that form or fashion during the Grand Jury or any 3 injuries to -- Mr. Lazo had injuries to his time before the Grand Jury? 4 4 Α. left wrist? No. 5 5 A. Q. You did testify in the Grand 6 No. 6 7 Jury, correct? 7 Sir, at any time did anyone indicate to you that a study had been done of Α. Yes. 8 Q. Mr. Lazo's skin throughout his body, that I'll ask you to turn to -- it 9 being his overall -- his outside skin as well would be a page that says "Microscopic 10 10 as his second layer of skin? Examination." It looks like this 11 11 Α. No. 12 (indicating). 12 So, you didn't know that he had MR. DUNNE: After page 8. Here. 13 13 Α. 14 multiple contusions throughout his body? 14 (Perusing.) Α. Q. I'll ask you to turn to the page 15 No. 15 after the heading "Microscopic Examination." Q. Did anyone tell you what the 16 16 cause of death of this case was? I'm looking now at an area that says "Soft 17 17 Tissue Samples." Do you see that? Α. Other than the detective saying 18 18 Α. Yes. 19 it was a heart attack, no. 19 I'll ask you to turn to the first 20 Q. There are references to the 20 "Right Frontal Scalp" and the "Left Frontal page of this document. 21 21

22

23

24

Scalp," where it says "Acute hemorrhage

Did you see any scarring or

hemorrhaging on Mr. Lazo's scalp in the front

without reactive inflammation."

22

23

24

25

Did anyone ever tell you -- the

first page, I'm looking at "I." Anyone ever

"Sudden cardiac death following exertion

tell you that part of the diagnosis was

25

Mr. Lazo, anybody ever ask you that before?

Other than the detective, no.

24

25

I'll show you two. You can tell me if either

one is the one that you saw.

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157 159 Scimone Scimone 1 Internal Affairs regarding my -- I don't know I'll show you a one-page document 2 what you would call it -- rules and procedures that we will identify as Scimone 8 for 3 identification. 4 violation being substantiated. 4 Q. 5 MR. BREWINGTON: It is a document 5 Was that in a letter form? Α. Yes. dated February 10, 2009. 6 6 7 7 (Scimone Exhibit 8, Document MR. BREWINGTON: Off the record. (Discussion off the record.) dated February 2, 2009, marked for 8 8 MR. BREWINGTON: Pursuant to Rule 9 identification.) 9 RQ Q. 10 34 we request a copy of any documents 10 Sir, I place before you that single page (handing). Do you have it? 11 relating to the Internal Affairs' 11 Α. (Perusing.) Yes. 12 report, investigations or reporting out 12 Q. Is this a document that you have 13 of the investigation, including 13 seen before? 14 14 notification letters made to this Α. 15 witness or any other subjects of the No. 15 Q. 16 investigation that have not been yet Did you ever see the document 16 signed off on by the signatures that appear on 17 produced, specifically any letters which 17 relate to any level of discipline, this left-hand side, whoever signatures those 18 18 reprimand or other punishment which was 19 are? 19 A. meted out or intended to be meted out by No. 20 20 Q. Have you ever received anything 21 the Suffolk County Police Department as 21 from "Captain Hatton, Captain of the Internal 22 to this witness or any other subjects of 22 Affairs Bureau"? 23 the investigation. 23 Α. 24 Q. Sir, let me show you this 24 No. Q. briefly. We will identify this as Scimone 9 Were you ever informed that 25 25 158 160 Scimone 1 Scimone 1 Internal Affairs, as part of their 2 for identification. 2 MR. BREWINGTON: It is a document investigation, determined that "This 3 investigation revealed Lazo suffered several which has 36 pages. It is entitled 4 4 5 injuries during his initial confrontation with 5 "Internal Correspondence," to "David Ferrara from Lieutenant Joseph police. These injuries consisted of 6 6 7 Capolino." 7 contusions around his eyes and an abrasion on his face. Lieutenant Capolino has determined (Scimone Exhibit 9, Document 8 8 9 Sqt. Scimone failed to ensure that Lazo was 9 dated February 9, 2009, marked for transported from the scene directly to a identification.) 10 10 Q. Sir, I show you what has been 11 hospital for treatment." 11 identified as Scimone 9 for identification 12 Anybody ever provide you with 12 that specific language? 13 (handing). 13 Α. 14 Α. No. 14 (Perusing.) My question -- you can thumb Q. Q. 15 Is that accurate that you --15 16 MR. BREWINGTON: Withdrawn. 16 through it very quickly. Have you ever seen this compilation of pages before? Q. 17 Do you agree that you failed to 17 A. ensure that Lazo was transported from the 18 (Perusing.) No. 18 Q. You have never been asked to 19 scene directly to the hospital? 19

Α.

Affairs?

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Yes. He wasn't transported

Now, sir, you said that you did

Just the document I got from

directly from the scene to the hospital.

see some other document relating to Internal

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respond or to add anything in any Internal

Affairs' report, other than what you have

Thank you, sir.

MR. BREWINGTON: Why don't we

testified to here today?

Correct.

Α.

Q.

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Scimone

take a five minute leg stretch.

(Recess taken.)

MR. BREWINGTON: I have no further questions for this witness at this time.

I still reserve my right to recall this witness once the documents and the information that we have requested are supplied, if necessary.

MR. DUNNE: I wanted to ask some follow-up questions.

MR. BREWINGTON: Then I may have some more.

15 **EXAMINATION BY**

MR. DUNNE: 16

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Q. Sergeant, let me ask you this: In terms of going back to April 12th of 2008, what were the rules and procedures regarding the circumstances in which a subject would be taken to the hospital?

Α. You assess the prisoner. And at 23 some point in time if you feel that prisoner needs to go to the hospital, the prisoner goes to the hospital.

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Scimone

Q. When you say we, who makes that determination?

Α. Any supervisor. The supervisor 5 at the scene, the supervisor in the precinct that interviews him. Any of the supervisors within the precinct can make that determination at any time. If a supervisor sees something, he can just go ahead and call somebody in and have him go.

If at any time the prisoner says, I want to go to the hospital, we always err on 12 the side of safety and take him immediately to the hospital.

At no time did Mr. Lazo ever say, I would like to go to the hospital or ever complain of any injury.

Q. If you had heard that at the scene, would you have directed him to be taken to the hospital if he had asked to go to the hospital?

MR. BREWINGTON: Objection.

Α. Absolutely.

Q. Now, based on the fact that there was a physical altercation between yourself,

Scimone

other officers and the decedent, Mr. Lazo, at 2

some point during his processing had he not 3

gone into stress, would Mr. Lazo have been

taken to the hospital? 5

> MR. BREWINGTON: Objection to going into stress. I do not know what

that means.

MR. DUNNE: Fair enough.

10 Α. Absolutely. I had every intention. If another supervisor didn't send 11 12 him, he would have been sent to the hospital.

13 Explain under what discretion you 14 would use as a supervisor to reach the 15 conclusion you just gave? Why would he have been going to the hospital?

A. At any time we use force, we send somebody to the hospital. Any time somebody complains of pain or injury, they are interviewed again in the precinct. If they complain of pain or injury, they say they want to go to the hospital, they get sent immediately to the hospital.

24 What about in instances where there is a physical altercation between a 25

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Scimone

2 prisoner and members of the Suffolk County

Police Department, from your experience as a supervisor, would that person be taken to a

hospital?

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6 Α. Prior to this incident, it was the supervisor's discretion to send somebody immediately from the scene or during the processing. So we make a determination. 10

He did not appear to be in 11 immediate medical stress. I am not a medical expert. Although I know he had physical injuries after the incident, I had every 14 intention to send him to the hospital. 15 However, I did not have a chance.

Q. In circumstances where you make a 17 determination that someone will go to the hospital but doesn't in your estimation need 18 immediately hospitalization, at what point in the process, in the arrest process would that or could that occur?

MR. BREWINGTON: Objection.

Calls for speculation.

At any time. He could have gone immediately upon entering into the precinct. Case 2:09-cv-01023-ST Document 70-4 Filed 01/09/19 Page 44 of 286 PageID #: 2065

JAMES SCIMONE

165 Scimone 1 1 Scimone 2 2 Another supervisor could have saw him and sent A. Yes. 3 Q. 3 him immediately from the precinct. Do you remember telling me that 4 Q. Is there any question at some 4 you made no such assessment? 5 MR. DUNNE: The record will 5 point in time, had not other events occurred, that 6 6 Mr. Lazo would have been taken to the stand. 7 7 hospital? MR. BREWINGTON: It sure will. 8 Α. 8 MR. BREWINGTON: Objection. I didn't make a formal 9 Calls for speculation. 9 assessment. However, I saw him walking, and 10 Q. From your experience as a talking, and cursing at people. 10 supervisor and involved in this incident, what 11 Q. Sir, with regard to evaluating would you have done? Mr. Lazo, which parts of his body did you 12 12 Α. 13 Sent him to the hospital. 13 visually check to see if he had any injuries? Q. 14 I just saw his face when he was A. 14 At some point during this walking away. 15 process? 15 16 16 Α. Absolutely. Q. That was walking away with 17 Officer Link? 17 MR. BREWINGTON: Same objection. A. 18 MR. DUNNE: I have no further 18 19 Q. Officer Link was the person that 19 questions. 20 **FURTHER EXAMINATION** 20 you basically instructed to take Mr. Lazo, 21 BY MR. BREWINGTON: 21 right? 22 A. 22 Q. Let's just take a look at the Yes. 23 Q. procedures, the guidelines that you referred Please tell me what instructions 23 24 to which existed at the time of this incident, 24 you gave Officer Link about making sure 25 which is Scimone 5. 25 Mr. Lazo was assessed in any way? 166 168 1 Scimone 1 Scimone 2 A. 2 Do you have that in front of you? I just told Joe -- Officer Link 3 Α. Yes. 3 to take him to the hospital. Q. 4 Q. 4 What is the effective date of You told Officer Link to take him 5 5 that document? to the hospital? 6 Α. "8/2/07." 6 Α. Excuse me. No. To the precinct. 7 Q. Q. How many months before Mr. Lazo's death was 7 Other than that, any other instructions? 8 that? 8 9 Α. 9 Α. Six. No, sir. Q. 10 Q. 10 You were aware of these Are you saying that Internal 11 regulations, correct? 11 Affairs was wrong? 12 Α. Yes. 12 I am saying Internal Affairs made Q. 13 Now, with regard to the 13 a decision after this incident and said send 14 determination to --14 everybody at the scene to the hospital. That 15 MR. BREWINGTON: Withdrawn. is a decision that I made eight years prior to 15 16 Q. With regard to the determination 16 this. 17 Q. 17 to send Mr. Lazo to the hospital, that would I am not asking you --A. require the supervising officer to make an 18 18 You are asking me if they are 19 assessment, right? 19 wrong. Yes, they are wrong. 20 Α. 20 Q. I made an assessment when I saw You don't agree --21 A. 21 him walking, and talking, and cursing at us No. 22 that he didn't need immediate medical 22 Q. -- with Internal Affairs having 23 23 attention. given you a verbal reprimand? 24 Q. Sir, do you remember me asking 24 A. No. 25 you questions about that before? 25 Q. With regard to this document

GON	NZALEZ CASE	2:09-cy-01023-ST Document 70-4	Filed 0	1/09/19 Page 45 of 286 Page1D #: 2066
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1		Scimone	<i>i •</i>	Scimone Scimone
2		efore you, Scimone 5 for	2	I'm not raising an objection to strike
3	the state of the s		3	
4	document		4	MR. BREWINGTON: I did.
)	MR. BREWINGTON: Withdrawn.	5	
6	٠.	Let me just ask a question. The	6	
7		at Mr. Lazo you said that you	7	
8	8 did see. You said that you saw one mark		8	_ · ·
9	someplace	e. Where was that?	9	
10	A.	On his face, I believe.	10	
11	Q.	Who did you tell to take pictures	11	
12	of that?		12	
13	A.	I didn't have a chance.	13	and the transfer to the
14	Q.	No, no. You had a radio,	14	
15	correct?	·	15	
16	A.	We don't do it that way.	16	•
17	Q.	Sir, did you have a radio?	17	, , , , , , , , , , , , , , , , , , , ,
18	A.	We don't do it that way.	18	to conclude that he needed immediate medical
19	Q.	Sir, did you have a radio?	19	
20	Α.	Yes, I did.	20	
21	Q.	Did you have a telephone, like	21	MR. DUNNE: Thank you. I have
22	you had us	sed before to stop Mr. Lazo?	22	nothing further.
23	Α.	It would have been done during	23	FURTHER EXAMINATION
24	the eveni		24	BY MR. BREWINGTON:
25	Q.	Sir, did you have a telephone?	25	_
			- 23	Q. When were your injuries
		1711	i	470
		170 Scimone	1	172
2	Α.	Scimone Yes.	1 2	Scimone .
2 3	A. Q.	Scimone Yes.	2	Scimone photographed?
1	Q.	Scimone Yes. Did you call anyone on your	2 3	Scimone photographed? A. I don't think my specific injury
3	Q. telephone of	Scimone Yes. Did you call anyone on your or the radio to say, Hey, when you	2 3 4	Scimone photographed? A. I don't think my specific injury was photographed. I was photographed. But I
3 4	Q. telephone of	Scimone Yes. Did you call anyone on your	2 3 4 5	Scimone photographed? A. I don't think my specific injury was photographed. I was photographed. But I don't believe there was nothing to
3 4 5	Q. telephone of get to the p	Scimone Yes. Did you call anyone on your or the radio to say, Hey, when you precinct, check this guy out? No.	2 3 4 5 6	Scimone photographed? A. I don't think my specific injury was photographed. I was photographed. But I don't believe there was nothing to photograph. It was just a strain.
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3 4 5 6 7 8 9 10 11	Q. telephone of get to the p A. quest FURTHER E BY MR. DUI Q. A. done.	Scimone Yes. Did you call anyone on your or the radio to say, Hey, when you orecinct, check this guy out? No. MR. BREWINGTON: No further lions. XAMINATION NNE: Why did you not do that? Because I knew it was going to be	2 3 4 5 6 7 8 9 10 11 12	photographed? A. I don't think my specific injury was photographed. I was photographed. But I don't believe there was nothing to photograph. It was just a strain. Q. But Mr. Lazo did have injuries to photograph, didn't he? A. Obviously. Q. My question to you: You said that it would have been done. Who did assess Mr. Lazo before he collapsed? Do you know? A. I wasn't in the precinct.
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3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 23	Q. telephone of get to the part of the par	Scimone Yes. Did you call anyone on your or the radio to say, Hey, when you orecinct, check this guy out? No. MR. BREWINGTON: No further ions. XAMINATION NNE: Why did you not do that? Because I knew it was going to be Explain what you mean by that so s clear. If it wasn't done prior to me the precinct, I would have ensured the precinct, I would have ensured to do. MR. BREWINGTON: Move to strike or you finished, Mr. Dunne?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	A. I don't think my specific injury was photographed. I was photographed. But I don't believe there was nothing to photograph. It was just a strain. Q. But Mr. Lazo did have injuries to photograph, didn't he? A. Obviously. Q. My question to you: You said that it would have been done. Who did assess Mr. Lazo before he collapsed? Do you know? A. I wasn't in the precinct. Q. My question: This is a person that you had physical contact with, right? A. Yes. Q. Did you ask anyone if an assessment ever took place with regard to Mr. Lazo? A. It is not routine to do an assessment in the precinct. If somebody is walking and talking, that is the assessment that we do. I'm not a medical professional,
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 23 24	Q. telephone of get to the part of the par	Scimone Yes. Did you call anyone on your or the radio to say, Hey, when you orecinct, check this guy out? No. MR. BREWINGTON: No further lions. XAMINATION NNE: Why did you not do that? Because I knew it was going to be Explain what you mean by that so s clear. If it wasn't done prior to me the precinct, I would have ensured e. These are all seasoned All supervisors in the precinct to do. MR. BREWINGTON: Move to strike rtion which is unresponsive. Are you finished, Mr. Dunne? MR. DUNNE: No. He has answered	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	photographed? A. I don't think my specific injury was photographed. I was photographed. But I don't believe there was nothing to photograph. It was just a strain. Q. But Mr. Lazo did have injuries to photograph, didn't he? A. Obviously. Q. My question to you: You said that it would have been done. Who did assess Mr. Lazo before he collapsed? Do you know? A. I wasn't in the precinct. Q. My question: This is a person that you had physical contact with, right? A. Yes. Q. Did you ask anyone if an assessment ever took place with regard to Mr. Lazo? A. It is not routine to do an assessment in the precinct. If somebody is walking and talking, that is the assessment that we do. I'm not a medical professional, as you pointed out.
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 23 24 25	Q. telephone of get to the part of the par	Scimone Yes. Did you call anyone on your or the radio to say, Hey, when you orecinct, check this guy out? No. MR. BREWINGTON: No further ions. XAMINATION NNE: Why did you not do that? Because I knew it was going to be Explain what you mean by that so s clear. If it wasn't done prior to me the precinct, I would have ensured the precinct it to do. MR. BREWINGTON: Move to strike or the you finished, Mr. Dunne? MR. DUNNE: No. He has answered estion. That is fine for me. And	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	photographed? A. I don't think my specific injury was photographed. I was photographed. But I don't believe there was nothing to photograph. It was just a strain. Q. But Mr. Lazo did have injuries to photograph, didn't he? A. Obviously. Q. My question to you: You said that it would have been done. Who did assess Mr. Lazo before he collapsed? Do you know? A. I wasn't in the precinct. Q. My question: This is a person that you had physical contact with, right? A. Yes. Q. Did you ask anyone if an assessment ever took place with regard to Mr. Lazo? A. It is not routine to do an assessment in the precinct. If somebody is walking and talking, that is the assessment that we do. I'm not a medical professional, as you pointed out. Q. Therefore, sir, would it be

JAMES SCIMONE GONZALEZ -V- COUNTY OF SUFFOLK 173 Scimone Scimone 1 ACKNOWLEDGMENT 2 accurate to say that you had no expectation STATE OF NEW YORK) 3 that an assessment would be done at the precinct? 4 COUNTY OF SUFFOLK) A. Not a formal one. 5 Q. 6 6 Thank you. 7 I, SGT. JAMES SCIMONE, hereby 7 MR. DUNNE: Now I need to 8 certify that I have read the transcript of my 8 clarify. testimony taken under oath in my deposition of FURTHER EXAMINATION January 5, 2011; that the transcript is a 9 10 11 true, complete and correct record of my BY MR. DUNNE: 10 testimony, and that the answers on the record 12 Q. Could you explain for the record, 11 13 as given by me are true and correct. 12 when a prisoner is taken into custody before 14 15 he is processed, where does that prisoner go? 13 SGT, JAMES SCIMONE 16 In front of who? 14 17 15 Α. In front of a sergeant. 18 Q. What is the sergeant's 16 Signed and subscribed to before responsibility at the time the prisoner comes 17 19 me, this dav into the precinct? 18 , 2011. of 20 He asks the condition, and if he 19 Α. wants to go to the hospital, if he takes 20 21 21 medication. 22 22 Q. Did you have an expectation that Notary Public, State of New York 23 that would occur at a point in time when 23 24 Mr. Lazo was taken to the precinct, despite 24 the fact that you were going to go to the 25 176 174 1 Scimone 1 hospital? 2 -----I N D E X------2 3 Α. Yes. 3 WITNESS **EXAMINATION BY** PAGE 4 SGT. J. SCIMONE MR. BREWINGTON 5, 165, 171 4 MR. BREWINGTON: I have no 5 further questions for this witness. 5 MR. DUNNE 161, 170, 173 (Time noted: 2:15 p.m.) 6 6 -----DOCUMENT REQUEST-----7 7 PAGE 29 Verizon cellphone records for 8 8 9 witness from 3:00 p.m. April 12, 9 10 2008 to April 13, 2008 10 11 130 Any records relating to any visits 11 12 witness made to Police Surgeon from 12 13 April 12, 2008 up to and including 13 14 date of his return to work, and any 14 15 records, notes, memoranda, 15 16 16 diagnostic tests or others conducted by Police Surgeon, 17 17 18 including any notations made in any 18 19 portions of any medical jackets 19 20 20 which are maintained, but not yet produced 21 21 22 134 Crime Scene photos 22 23 23 136 All photographs 24 24 25 25

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	177	1	JAMES SCIMONE
1		ļ	
2	DOCUMENT REQUEST (Continued)	1	179
3	PAGE 159 Copy of any documents relating to		CERTIFICATE
. ~4	Internal Affairs' report,	3	STATE OF NEW YORK)
	investigations or reporting out of	4	, 35:
6	investigation, including	ŧ	COUNTY OF NASSAU)
7	notification letters made to this	ć	
8	witness or any other subjects of	a	I, FLORENCS SYSKROT, a Notary Public within and for the State of New
9	investigation not yet produced,	ب	York, do heraby pertify:
10	specifically any letter which	10	That, SGT. JAMES SCIMONE, the
11	relate to any level of discipline,	11	witness whose deposition is hereinbefore
12	reprimand or other punishment which	12	set forth, was duly sworn by me and that
13	was meted out or to be meted out by	13	such deposition is a true record of
14	Suffolk County Police Department as	15	testimony given by such witness. I further certify that 1 am not
15	to this witness or any other	16	relaced to any of the parties to this
16	subjects of investigation	17	action by blood or marriage; and that I
17		16	am in no way interested in the outcome
18	INFORMATION TO BE FURNISHED	19 20	of this matter.
19	PAGE 14 Date of assignment to COPE Unit	21	IN WITHESS WHEREOF, I nave hereunto set my hand this 13th day of
20		22	January, 2011.
21	EXHIBITS	23	
22	SCIMONE FOR I.D.	24	
23	1 Attachment # 25 26	25	FLORENCE SYSKROT
24	2 Attachment # 26 112		
25	3 Attachment # 12 125		
	178		
	·		
2	EXHIBITS (Continued)		
3	SCIMONE FOR I.D.		
4	4 Attachment # 13 131		
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6	6 Attachment # 16 148		
7	7 Autopsy Report 149		•
8	8 Document dated 2/10/2009 157		
9	9 Document dated 2/9/09 160		
10			
11	(Counsel retained exhibits.)		
12			
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24 25			

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EXHIBIT O

GONZALEZ -V- COUNTY OF SUFFOLK WILLIAM JUDGE- 11/18/2010

CONDENSED TRANSCRIPT AND CONCORDANCE PREPARED BY:

REALTIME REPORTING, INC. 124 East Main Street Suite 202 Babylon, New York 11702 Phone: (516) 938-4000 Fax: (631) 983-8938

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WILLIAM JUD
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UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK

PATRICIA GONZALEZ and JENNIFER GONZALEZ, individually and as co-administrators of the Estate of KENNY LAZO, Plaintiffs,

Plaintiffs,

- against
COUNTY OF SUFFOLK, SUFFOLK POLICE DEPARTMENT, POLICE COMMISSIONER RICHARD DORMER, in his individual and efficial capacity, POLICE OFFICER JOHN NEWTON, in his individual and official capacity, POLICE OFFICER JOHN SCHOOL, in his individual and official capacity, POLICE OFFICER JAMES SCHMONE, in his individual and official capacity, POLICE OFFICER FOLICE OFFICER WILLIAM JUDGE, in his individual and official capacity, POLICE OFFICER CHRISTOPHER TAIT, in his individual and official capacity, POLICE OFFICER LINK, in his individual and official capacity, COUNTY DISTRICT ATTORNEY THOMAS SPOTA, in his individual and official capacity, and official capacity, asst. DISTRICT ATTORNEY JOHN B. COLLINS, in his individual and official capacity, and "JOHN AND JANE DOES 1-10" representing as yet unknown and unidentified members of the Office of the Suffolk County District Attorney (all in their individual and official capacities as employees of the Office of Suffolk County District Attorney),

Defendants.

Docket No.: CV09-1023(TDP)(ETB)

14 15

100 Federal Plaza Central Islip, New York

November 18, 2010 10:05 a.m.

Deposition of the Defendant, POLICE OFFICER WILLIAM JUDGE,, pursuant to Notice, before Florence Syskrot, a Notary Public of the State of New York.

REALTIME REPORTING, INC. East Main Street, Suite 202 Babylon, New York 11702 516-938-4000

IT IS HEREBY STIPULATED AND AGREED by and between the attorneys for the respective parties herein, that the filing, sealing and certification of the within deposition be walved.

IT IS FURTHER STIPULATED AND AGREED that all objections, except as to the form of the question, shall be reserved to the time of the trial.

IT IS FURTHER STIPULATED AND AGREED that the within deposition may be sworn to and signed before any officer authorized to administer an oath with the same force and effect as if signed and sworn to before the Court.

- 00a -

2

APPEARANCES:

LAW OFFICES OF FREDERICK K. BREWINGTON 3

Attorneys for Plaintiffs

556 Peninsula Boulevard

Hempstead, New York 11550

7 BY: FREDERICK K. BREWINGTON, ESQ.

9 CHRISTINE MALAFI, ESQ.

10 Suffolk County Attorney

11 Attorney for Defendants

H. Lee Dennison Building

13 100 Veterans Memorial Highway

P.O. Box 6100

Hauppauge, New York 11788-0099

BY: RICHARD T. DUNNE, ESQ.

19 ALSO PRESENT:

20 JAMES SCIMONE 21 CHRISTOPHER TALT

JOHN NEW TON

23 24

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18

25 1 of 36 sheets

WILLIAM JUDGE, having been

3 first duly sworn by a Notary Public of

the State of New York, was examined and

5 testified as follows:

6 EXAMINATION BY

7 MR. BREWINGTON:

Q. Please state your name.

9 A. William Judge.

10 Q. W hat is your present address?

11 Suffolk County Police Department,

30 Yaphank Avenue, Yaphank, New York 11980. 12

Q. Мг. Judge, m y name is fred

Brewington.

A. Good morning,

16 Q. Good morning. I'm the attorney

17 for the Estate of Kenny Lazo through Patricia

Gonzalez and Jennifer Gonzalez.

I am going to be asking you some

20 questions today concerning the lawsuit, in

which you are a defendant, that is now pending

22 In the Eastern District of New York.

23 At any time if you don't

understand the question as I pose it, let me know that. I will be happy to try and

Page 1 to 4 of 144

4

Yes, sir, I will. Α.

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22 If at any point you need a break, Q. 23 you want to take a comfort break, or stretch 24 your legs, or speak to your attorney who is 25

Judge seated to your right, let know me that. We will take a break so that you have the opportunity.

The only request that I have is, if there is a question that's pending, we try and get an answer to the question so that there is a question and answer.

If we cannot do that, the attorneys will work that out. Is that alright?

> Yes, it is. Α.

If at any point also, sir, that Q. you have any other needs or have any requests, feel free to speak up. And I will be happy to accommodate that.

Let me just tell you, as we go through this deposition, I'm going to be asking some questions. I may be showing you some documents. Feel free to take your time and look at whatever documents that I place before you. Because questions may be coming regarding those documents. So I'm going to ask you to make sure that you had a chance TO review them. You may not read them

Judge

Yes, sir.

Α.

Q.

Α.

Q.

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procedures. We call them R&Ps, rules and procedures. Sir, with regard to the rules and

reviewed in preparation for this deposition?

Any other documents that you

Just went over our rules and

4 procedures, did you review the entire rules and procedures and orders that come from the Commissioner, or just the rules and 7 procedures -- or any particular rules and procedures? 9

Did not read the entire rules and Α. procedures. No.

Do you recall which particular Q. rules and procedures you did review?

Α. Yes.

Which ones were they? Q.

The use of deadly physical force. Α.

Any others? Q. 17

I believe there was one with Α. equipment.

Any others that you recall? Q.

Not offhand. Α.

Other than your Internal 42, Q. supporting deposition, and the portions of the rules and procedures, any other documents that

you reviewed prior to this deposition? 25

2/06/2010 10:26:56 AM

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2 of 36 sheets

25

Page 9 to 12 of 144

3 of 36 sheets

A.

No.

21

22

23

Α.

Q.

Department?

Α.

Q.

Α.

degree?

computer technical school.

When you say second year of

college, did you finish any portion of it, a

20

21

22

23

24

25

Suffolk County Police Department?

prior to coming to the Suffolk County Police

Have you done any bartending work

No.

A.

Q.

employment?

I would say two years.

During that time any other

22

23

24

22

23

24

25

Α.

Q.

Α.

Florida.

No.

Why not?

My wife didn't want to stay in

GONZALEZ -V- COUNTY OF SUFFOLK 23 21 Judge 1 Judge I waived my benefits. I didn't 1 Α. 2 When did you take the test for Q. 2 accept them. 3 The injury to the spine, to what Las Vegas? 3 Q. 4 '98. Α. degree was the injury, please? 4 Did you pass that examination? 5 Q. 5 Spondylolisthesis. Α. 6 Α. What do you understand the injury 6 Q. 7 Were you called to work? Q. 7 to be? 8 Fracture of the coccyx bone. Α. No. 8 Α. 9 Were you interviewed? Q. 9 Was there any surgical Q. 10 Α. No. 10 intervention? Were you ever canvassed for that 11 Q. 11 No. Α. 12 job? Following the fracture of the 12 Q. 13 coccyx bone, did you have any residual No. Α. 13 New York City, when did you take 14 Q. problems or aftermath, concerns? 14 that test? 15 Just pain. Α. 16 1990. Α. Any other military service other 16 Q. 17 Did you pass that exam? Q. 17 than that two-month stint? 18 Α. 18 Α. No. Were you called to work? 19 Q. Sir, did you undertake and 19 Q. 20 complete the normal course of study at the Α. No. 20 Were you interviewed, that being 21 Q. Suffolk County Police Academy? 21 going through the background interview? 22 22 Yes. Α. 23 Α. No, sir. How long were you in the Academy? 23 Q. Were you reachable on the list? 24 Q. 24 Six months. Α. No. I think that is why I never 25 A. 25 22 Judge 1 Judge During that six months, did you 1 Q. 2 was contacted. take the normal courses, Penal Law, Physical 2 Do you have any military service, Education, all the other courses that are part Q. 3 sir? 4 of the regular curriculum? I was in the United States Marine Α. 5 Α. 6 Did you take any training or 6 Corp. Q. When were you in the Marines? 7 Q. courses outside the normal curriculum? 7 1989. Α. 8 Α. 9 For how long? Q. When you graduated --9 Q. 10 Two months. Α. MR. BREWINGTON: Withdrawn. 10 11 For that two-month stint --Q. Prior to your graduation, did you 11 Q. MR. BREWINGTON: Withdrawn. 12 12 have to repeat any courses? 13 Did you finish basic? Q. I'm sorry. I couldn't hear you. 13 Α. 14 No. Α. Sure, Prior to your graduation 14 Q. 15 Why not? from the Academy, did you have to repeat any Q. 15 I injured my spinal chord. Α. 16 courses? Was there a discharge? 17 Q. 17 Α. No. 18 Yes. Α. You graduated in or about 2001; 18 Q. 19 What was your discharge? Q. 19 is that correct? COG, Convenience of the 20 June 2001 to November of 2. Α. 20 Α. 21 Government. So, it was a little less than six 21 Q. As a result of that, were you 22 months that you were in the Academy? Q. 22 afforded any official military status, that 23 It is considered six months. 23 Α. being whether or not you retired, for any 24 When you graduated, were you Q. 25 benefits, or otherwise? 6 of 36 sheet 25

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. 33	WILLIAM JU
Judge	35
2 Q. What do you do as your Airport	Judge 2 actually conducted?
verations Unit?	- Stading Conducted?
A. Are you familiar with the TSA?	reisonally on me, Mr. Brewington'
Yes, sure I am. A lot of people	res, sir.
o are these days.	Thelleve it was one.
⁷ A. We assist them.	bo you recall what that
8 Q. So, you serve as a backup to	7 allegation was?
y them, or a coordinated or a unit that is	The state of the s
coordinated with them?	anogation was, no.
11 A. That's correct. We have a desk	10 Q. Do you recall anything about the 11 complaint?
12 rocated right next to their area.	
13 Q. Is that your place of assignment	i es.
r4 currently?	A Milat do you recall?
15 A. No, sir.	" " " " " " " " " " " " " " " " " " "
16 Q. I would like to turn your	was stanned. And covered
17 attention to April 12, 2008. Are you able to	were involved in trying to end the
go back to that date, sir?	
19 A. Yes, I am.	and another family due to a fight
20 Q. What was your assignment on that	Do you recall anything about what
21 day, ii you recall?	20 the allegations were made against you? 21 A. Me. personally no
was assigned to a marked unit	i i personally, 110,
was that a sector car?	The second of th
The sector car. It looks	23 complaints you have received, that being 24 civilian complaints first?
st like a sector car. We don't have a	25 A. No.
1 hudge	
Judge	1 Judge
randia sector, per se.	2 MR. DUNNE: Just for the record,
3 Q. What unit were you assigned to4 that? Do you recall?	3 I know that the Federal stips apply. I
	object to this line of questioning. I'm
 A. The physical number on the side of the car said COPE 37. 	5 just preserving that.
	6 Officer Judge, answer the
7 Q. Were you working with anyone on 8 that day?	questions as best you can.
9 A. Yes, I was.	8 Q. Have you had more than one, as
1 -711451	9 far as you recall?
10 Q. With whom were you working? 11 A. Sgt. James Scimone.	10 A. More than one what, sir?
12 Q. Was Sgt. James Scimone a	11 Q. Civil complaint?
13 supervising officer for you on that day?	12 A. Civil complaint, ves.
14 A. Yes.	Q. Do you recall any of the facts of
	14 any of them?
15 Q. What was your assignment on that 16 day?	15 A. No.
17 A. Routine patrol.	Prior to the one that we just
- Pation	" uiscussed?
TO THE STATE OF TH	18 Q . Yes, sir.
on previous occasions prior to the occurrence April 12, 2008, was Sat Scimons	19 A. No.
on previous occasions prior to the occurrence April 12, 2008, was Sat Scimons	19 A. No. 20 Q. Prior to or after.
on previous occasions prior to the occurrence April 12, 2008, was Sgt. Scimone a pervising officer that conducted	19 A. No. 20 Q. Prior to or after. 21 A. No, I'm not aware of.
on previous occasions prior to the occurrence April 12, 2008, was Sgt. Scimone a pervising officer that conducted investigations into civilian complaints	19 A. No. 20 Q. Prior to or after. 21 A. No, I'm not aware of. 22 Q. Do you know in total how many you
on previous occasions prior to the occurrence April 12, 2008, was Sgt. Scimone a pervising officer that conducted investigations into civilian complaints against you on prior occasions?	19 A. No. 20 Q. Prior to or after. 21 A. No, I'm not aware of. 22 Q. Do you know in total how many you 23 have been the subject of?
on previous occasions prior to the occurrence April 12, 2008, was Sgt. Scimone a pervising officer that conducted investigations into civilian complaints against you on prior occasions? A. I believe so. Do you know how many he has	19 A. No. 20 Q. Prior to or after. 21 A. No, I'm not aware of. 22 Q. Do you know in total how many you 23 have been the subject of? 24 A. I believe two.
on previous occasions prior to the occurrence April 12, 2008, was Sgt. Scimone a pervising officer that conducted investigations into civilian complaints against you on prior occasions? A. I believe so. Do you know how many he has	19 A. No. 20 Q. Prior to or after. 21 A. No, I'm not aware of. 22 Q. Do you know in total how many you 23 have been the subject of?

SON	ZALEZ	-V- COUNTY	OF SUFFOLK	
2011			31	1
1			Judge	2
2	In	iternal Af	fairs' investigations?	3
3		A.	Yes.	4
4		Q.	How many?	5
5		Α.	Including this Lazo case?	6
6		Q.	Yes, sir.	7
7		Α.	Two.	8
8	1	Q.	Do you recall what the	9
g	a	llegation:	s were or the basis for the	10
10	ir	nvestigati	ion?	11
11		Α.	Yes.	12
12	2	Q.	What were they, please?	13
13	3	Α.	I had shot at a subject in a	14
14	4 V	ehicle.		15
1:	5	Q.	When was that, please?	16
10	6	A.	'07. 2007.	17
1	7	Q.		18
1	8	Α.	Brentwood.	19
1	9	Q.	This vehicle that you shot at,	20
2	ر ا 0:	was it as	part of an apprehension?	2
2	:1	A.	Yes.	2
2	2	Q.	Was the person apprehended?	2
2	23	A.	Yes.	- 1
2	24	Q.	Prosecuted?	2
	25	A.	Yes.	- -
			38	
İ	1		Judge	1
	2	Q.	Was anyone injured as a result of	
	3	you shoo	oting at a vehicle?	l
- }	4	Α.	No.	-
	5	Q.	What was the result of the	1
İ	6	Internal	Affairs' investigation, if you	
	7	recall?		-
	8	A.	Cleared.	-
l	9	Q.	Have you ever been found either	-
	10	respons	ible or had any claim or allegation	-
]	11	coming	from a civilian complaint, or Internal	-
ļ	12	∆ffairs'	complaint, or investigation where it	1
	13	has bee	n substantiated against you?	İ
	14	Α.	You mean found guilty?	Ì
	15	Q.	I guess that is	}
	16	A.	No.	ŀ
	17	Q.	With regard to the civilian	l
	18	compla	int that was involved in this large	_
	19	domest	ic dispute that you referred to, who wa	15
	20	the inv	estigating officer?	
	21	Α.	I believe it was James Scimone	•
	1		with regard to the two Internal	

With regard to the two Internal

23 Affairs that you recall, you said that they

were dealing with the Lazo case and then this

Q.

22

```
vehicle in Brentwood; is that correct?
            That is correct.
      Α.
            Any others that you recall as ye
      Q.
 sit here today?
      Α.
            No.
            Going back to that particular
       Q.
 day, that being the 12th of April of 2008,
  what was your tour, please?
            4:00 p.m. to 12:00 midnight.
       Α.
            Were you asked to go to or
       Q.
  assigned to any general geographic area for
  that time period?
       Α.
             No.
             Other than regular patrol, did
       Q.
5
  you have any other assignment?
             That particular night?
       Α.
7
             That particular night.
       Q.
8
             No.
       Α.
9
             Of course, other than answering,
        Q.
0
   you know --
21
             I understand.
        Α.
22
             -- radio calls or assignments you
23
   would get through the night, did you come out
   of the house with any particular assignme
                    Judge
1
              Not that evening, no.
        Α.
2
              By the house I'm referring to
3
   coming out of the station house or the squad.
              I understand.
        Α.
 5
              I would like to turn your
         Q.
   attention to at or about 8:00, 8:15 p.m.
 7
    Where were you on that evening, if you recall?
 8
              The approximate area --
         Α.
 9
         Q.
              Yes.
10
               -- was Central Islip.
         Α.
11
         Q.
               Yes, sir.
12
               In or about that time, did you
13
    receive --
14
               MR. BREWINGTON: Withdrawn.
15
               In or about that time, did you
         Q.
16
    hear or receive any radio transmissions?
         Α.
               No.
 18
               Did you receive any requests that
         Q.
 19
    you participate in any activities by any oth
     police officers?
```

Judge

21

22

23

24

Α.

Q.

Α.

Q.

How did that come about, please?

Via the cellphone.

Did you receive a call?

radio transmissions from car to car, and 24 station to car, and even handheld units of 11 of 36 sheets

Is it your normal practice?

Now, you are aware, sir, that the

Normal practice, sure.

24

Q. Yes.

8:00 p.m., or maybe prior, Page 41 to 44 of 144

20 Q. 21

Α.

Narcotics.

At the time that you received

this call, do you know when or about what time that was on that day?

22 23 Α. Approximately?

25 Α.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

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11

12

14

15

16

17

19

20.

Q.

Α.

21∖ ੂ

22

23

WILLIAM JUDGE

GONZA	LEZ -V- COUNT	Y OF SUFFOLK			47	
		45	1		Judge	
, 1		Judge		Α.	No.	
2	Mr. Brew	ington, or within that time period.	3	Q.	As you went to Route 27, what	
3	Q.	In or around 8:00?		occurred?	· - /	9
4	A.	That's correct.		A.	Mr. Brewington, can I back up	for
5	Q.	What did you do?	5	a minute?		
6	A.	I waited for Sgt. Scimone to get	1	a minute: Q.	Certainly.	
7	off the p	none.	7	Q. A.	I switched our primary radio fr	rom
8	Q.	After he got off the phone	8	the Third	Precinct band (indicating). I'm	
9	were you	rolling at that time?		nointing t	o this, being that this is the	
10	A.	Yes, sir.	10	pointing t	of our radio inside the radio car.	
11	Q.	At the time that he got off the	11	I'm drivir		
12		nat did you do?	1 '-	Q.	Hold on for a second. You are	
13	Α.	I asked, What's up?	13	Ul. Saintina di	own and to your right as though you	u
14	Q.	What was your discussion between	14	pointing a	g with the console between the	
15	vourself a	and Sat. Scimone at that time?	15		y with the combone sections	
16	Δ	Sat. Scimone had instructed me to	16	seats?	That's correct.	
17	reenand	to a particular area of the Robert	17	Α.	or console that is right on	
18	Moses C	auseway and the Sunrise Highway.	18	Q.	Of College clide is regine an	
19	Q.	When you say he instructed you to	19	the floor?	No, not on the floor.	
20	respond.	did he say, I am instructing you to	20	Α.	It is between the seats?	
21	1.0		21	Q.	Correct.	
22		What did he say? What did you	22	Α.	You are driving, and to your	
23			23	Q.		
24	_	No. It was a very relaxed	24	right as th	ne driver. I switched our primary radio	fr
25	_	ation. Billy	25	A.	1 switched our primary runs 48	
		46			Judge	
1	Ī	Judge	1		-	
	_		2		d Precinct Band. To what?	
i i	- 3 A .	Referring to me start	3	Q.	To the Detective Band.	
	heading	g to that area that I had just	4	Α.	When I say band, Mr. Brewin	gton,
	5 describ		5		Willen I say band, in District	
1	6 Q		6	_	rring to a channel. I understand that.	
	7 A	Of course.	7		Does the Third Precinct normally	/
l l	, <u>, , , , , , , , , , , , , , , , , , </u>		8			•
- 1	g move?		9		nore than one channel?	
1	. Δ	. I proceeded smartly. I was going	10	_	No. Is the channel on which the Thir	rd
	1 probab	ly about 70 miles an hour, to be hones	t. 11	Q.	to the charmer on which and	
1	2 Q		14		transmits, is that shared with any	
1	13 A		13			
	13 A	in the transfer contract	14	_		
	14 G 15 took?	,	1!			
- 1	_	Westbound Hecksher State, to	10		transmit on normally?	
1	16 Pober	Moses southbound, to Route 27.	1	_		
	-	the sector what	1	в Q.	When you switched to the	-h
	18 G	xact designation was to be?	1		e Band, what channel did you switch	. 5-
		A. Exact designation?	2	o to?		
			2			
1	- '	•	2	_	ive Band.	
l l		1	2	3 Q	. Why did you do that?	.m ^!!"
ŀ	23	2. Did you have a general standing as to where you would be ending	2	4 A		oni our
		standing as to where you mount as	2	5 detect	ives to us.	12 of 36 s
1 1	25 up?		45 bo 4	8 of 144		12 01 30 3

25 up?

12/06/2010 10:26:56 AM

1

3

4

23

24

25

am in the time period, yes.

0.35.E4 AM

24

25

Q.

Α.

So you pulled in behind him?

GONZALEZAS COUNTY OF SUFFOLK DOCUMENT 70-4	Filed 01/09/19 Page 80 of 286 PageID #: 2101
1 Judge 57	WILLIAM JUI
f Sudge	1 59
- and diffe,	Judge 2 Q. After you did your averter to
	Q. After you did your overhead, how3 long was it until the vehicle pulled over?
4 hat is the next thing that you did? 5 A. Det. Newton had an idea.	4 A. Immediately.
Dec. Newton had said it was the	
The signal on,	the winds happened?
7 Q. So he identified the vehicle to 8 you?	 A. The vehicle pulled over to the 7 shoulder of the roadway.
Correct.	8 Q. What was the flow of traffic at 9 that time?
The radio:	10 A. Moderate,
165.	
12 Q. This is still on the Detective 13 Band, correct?	11 Q. Then after the vehicle pulled 12 over, what next happened?
	13 A. The first thing I immedia
mat's correct,	13 A. The first thing I immediately 14 observed, that the vehicle did not pull over
Airei uns identification, that	15 far off of the shoulder of the roadway. So I
16 being the car with the signal on, what did you 17 do?	16 actually parked my car at an angle, a bit
	17 askew so that I can have a lane of safety to
Det Newton had said he is gain	18 approach the vehicle.
seemed he was doing worth and	nd 19 Does that make sense?
and bouthern State Parkway. And then the	20 Q. Sure.
The left lane immediately to	A. So the way the vehicle pulled
the right lane, and headed towards the Bay Shore Road exit.	22 over, it did not give me much room from the
	23 actual roadway to interview the driver, the
Titell Mildt did Aon dos	24 operator of the vehicle.
Det excuse me. Sgt. Scimone	25 Q. When you say it didn't give you a
1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	
Judge 2 said to Det. Newton, Do you want us to take	1 Judge 60
3 him? Referring to, do you want us to do a	2 lot of room, it didn't pull up far onto the
4 vehicle and traffic stop on the vehicle? And	3 grass?
5 we did so.	4 A. Correct.
6 Q. At that time when Sgt. Scimone	5 Q. It was closer to the roadside,
7 asked if you want us to take him, what was	6 but still pulled over?
8 your understanding as to why that request was	⁷ A. Oh, yeah.
9 being made?	8 Q. At that point the vehicle had
10 A. My understanding was that we was	9 Still obeyed your commands?
there to identify the operator of the vehicle.	10 A. Correct.
12 Q. What next happened?	11 Q. What happened next?
13 A. I performed a vehicle and traffic	12 A. Prior to exiting the vehicle 7
14 stop using my overhead takedown lights.	To told Sgt. Scimone, I said. I will be contact
15 Q. What was the violation or the VTL	The And we are pulling him over for speeding a
16 at that time?	To exited thy venicle. And I approached the
17 A. Speeding.	io dilver.
18 Q. What was the speed?	17 Q. Now, when you said, I'll be
19 A. Approximately 65.	contact. We are pulling him over for
Q. Was that by estimate or radar?	19 speeding, why did you tell Sgt. Scimone that?
A. Visual speed estimate.	A. That I would be contact, and be
Q. What happened then?	21 Would be cover.
A. Pulled the vehicle over at the	22 Q. We are pulling him over for
24 split on Bay Shore Road and the Southern State	23 speeding, why did you tell him that?
I dikway.	A. To be on the same page.
L5 of 36 sheets	Then what happened 1
Page 57 to	60 of 144

10.0 10.10 10.76.56 AM

Case 2:09-cv-01023-ST Document 70-4	Filed 01/09/19 Page 82 of 286 PageID #: 2103
65	WILLIAM JUE
Judge	67
2 A. I walked back to my radio car.	Judge
m Walking back to the car Sat Science	- Correct.
a second to the driver's side.	1 - Wilde Occurred With regard to that
5 Q. Driver's side of?	4 radio communication?
6 A. Of the Cadillac.	ne asked me the name of the
7 Q. Of the Cadillac?	abeliator of the venicle.
8 A. I tell Sgt. Scimone that I'm	30, at that time he did not know
going back to the PD. I'm going back to the	o the operator based on that question; is that
to car to fun the license and the registration on	40.
ii die venicie.	Correcti
12 Q. Okay. What did Sgt. Scimone say?	wriat did you tell him?
13 A. He comes to contact on the	Keiny Lazo,
14 driver's side of the Cadillac. And I tell him	was triefe any further
15 about the push button	the solversation at triat time?
16 Q. Okay.	ine asked me to call him on his
17 A on the dash.	to Det. Talt.
18 Q. All right. What did he say?	Tod were already talking to him
¹⁹ A. He said, Okay.	to de that time, correct?
Q. All right. Then what did you do?	Correct,
A. I went back to the vehicle my	walled you to get off the
venicle, the police car.	radio and call him on the cellphone; is that correct?
Q. When you went back to the	
24 Venicle, what transpired?	Ng/K
A. I ran the data based on the	15 tride normally done?
66	25 A. It is.
Judge	1 68
2 license.	Judge
3 Q. You did that through the computer	2 Q. To get off the radio and call on 3 the cellphone?
- III your car?	1
5 A. That's correct.	TUS Called, actually officer
6 Q. What was the outcome of your	because Sqt. Scimone was on the
running the data?	The delication was the detectives. We didn't would
8 A. I don't know if I ran the data as	7 the operator of the vehicle to know that we
9 far as his name, or if I put his	8 were talking, referring to him. It is an 9 officer safety issue.
10 identification number from his the State	
in the card. I don't	10 Q. You were in your car, correct? 11 A. Correct.
which one I did.	Z. Correct.
out bille I did that his	The Operator of the Vehicle
and the desirate of his driver's license came up	13 was in front of you with Sgt. Scimone outside14 his window, correct?
on the screen.	15 A. Correct,
bid you view that abstract?	Correct.
1 165.	16 Q. On the contact side? 17 A. Yes.
When you viewed the abstract	i es.
and you see:	18 Q. Correct? And you were talking to 19 Det. Talt by radio?
20 A. That his license, the status was	
Zi and.	Correct.
What did you do then?	There was pet. Talt?
" At that time I was in radio	22 A. In his car. I have no idea where 23 he was.
Talt.	
25 Q. Through the radio in the car?	Wildt WdS VOUR reason for going
Page 65 to	
of a blacks	12/05/2010 12 12 12

Chris, Det. Talt, asked me if he

had a valid driver's license and if he had any

Q.

conversation?

Α.

warrants.

10.12010 10.76.56 AM

20

21

22

23

24

21

22

23

24

license?

Α.

Q.

25 hand to hand?

do a hand to hand in West Islip.

He said he just saw that vehicle

He said he saw the vehicle do a

GONZALEZ-V- COUNTY OF SUFFOLK Case 2:09-cv-01023-ST Document 70-4	Filed 01/09/19 Page 84 of 286 PageID #: 2105
. 73	WILLIAM JUI
1 Judge	75
2 A. The person in the vehicle do a	Juage
and to hand.	the permit.
Q. Did he say the person or the	ies, sir.
5 vehicle?	of the operator.
6 A. The person.	Alid Det. Newton had asked mo the
7 Q. Was he able to give you a	o similar questions, Does he have a valid
8 description of the person?	7 driver's license? And does he have any
⁹ A. No.	- Trainants:
10 Q. Did you ever get a description of	1 Said, No. He said, We just saw
the person?	do a deal down in West Islip.
12 A. No.	Allight,
13 RL Q. Did you ever ask for a	Do you want to take a
14 description of the person?	break here?
15 MO A. No.	MR. BREWINGTON: Let's take a
16 I was confident that the vehicle	break.
17 that we had pulled over with the registration	16 (Recess taken.)
that they gave over the radio was in fact the	MR. BREWINGTON: Read back the
19 Vehicle that we had in front of us.	last question and answer.
MR. BREWINGTON: Note for the	(Record read.)
record, I move to strike that portion of	Q. Going back on the record, sir,
the answer which is unresponsive to the	21 With regard to your conversations with Det
question that was asked.	Newton, at the time that you had this
Mark it for a ruling.	23 Conversation with Det. Newton, are you still
Q. My question to you, sir: At the	seated in your car?
	25 A. Yes,
1 Judge 74	76
2 time that you got this statement that there	Judge
was that he saw this person do a hand to	Q. Are you still seated in the
hand, you had no description of the person,	3 driver's side of your car?
correct?	4 A. Correct.
A. Correct.	5 Q. At that point are you able to see
Q. Then what did you do?	Sgt. Scimone?
A. At that time Det. Talt I beg	7 A. Yes.
your pardon, Det. Newton had pulled up to the	8 Q. You have visual contact with your
passenger side of my vehicle. He was	supervisor who was riding with you on that
operating an unmarked Ford Explorer.	day, right?
Q. Did you have any conversation	11 A. Correct.
with Det. Newton at that time?	12 Q. When Officer Newton
A. Yes, I did.	13 A. Det. Newton.
	14 Q. Excuse me. When Det. Newton came
Q. Was he speaking to you from his car, or did he get out and come to your	15 to your window, did he remain on the passenger
window?	16 side, or did he change positions at any point
_	17 while you remained in the car?
The got out of his vanicia	146 -
approached my vehicle from the passenger side.	in stayed on the passenger side
in a rolled my window down from the name	
That just nung up the phone with Dot	
rait. I looked over to my right side and saw	21 left and went up to the vehicle that was in 22 front of me with Sgt. Scimone.
Det. Newton. I showed him the driver's	23 Q. At the time that he left the
license of the operator.	The time that he left the
Q. The permit?	24 passenger side of your vehicle, did you remain25 in your vehicle?
Page 73 t	0 76 of 144
•	12/06/2010 10:25 70

1

2

3

4

5

6

7

8

9

10

11

22

23

the registration of the vehicle.

I took my -- so, I'm taking my

hands to my right, referring to using the

Right.

Q.

Α.

22

23

24

A.

Q.

registration?

Yes.

By that time you also knew that

the registration was solid? There was a valid

12/06/2010 10:26:56

On the side of the vehicle, Α. 24 passenger side, rear part, standing two feet

behind the car, or is he on the side of the

license plate, if you need a focal point. I'm

literally standing behind the license plate of

Okay. Is Mr. Lazo directly

Α.

Q.

10.76.56 AM

grass?

the trunk area of the car.

17

18

19

20

21

22

23

Page 85 to 88 of 144

17

18

19

21

22

23

24

Q.

Α.

Q.

right?

Just so I am clear, it is

yourself, Sgt. Scimone and Det. Newton that

What next happens?

Mr. Lazo gets in between myself

are around Mr. Lazo at this point; is that

Correct.

and Det. Newton and starts to run towards the 22 of 36 sheet

25

Page 89 to 92 of 144

Q.

He was getting up, and he was

17

18

19

20

22

23

24

25

23 of 36 sheets

24

25

Α.

his left. Kenny Lazo's left.

24

12/06/2010 10:26:56 444

to tell you that?

Q.

Describe it.

24

25

24

25 struck him in the head?

GONZAL CASE OF 102 OF SUPPOLE ST. Document 70-4	Filed 01/09/19 Page 94 of 286 PageID #: 2115
113	WILLIAM JUE
Judge 2 A. Continuing to reciet	1 Judge
To lesist.	2 radio car to call for help.
3 Q. Again, can you tell me what he 4 as actually doing?	3 Q. What were you doing when he went
	4 back to the car to call for help?
5 A. Pushing and shoving, trying to 6 get away.	5 A. Holding on as tight as I could.
. .	6 Q. What was Mr. Lazo doing?
7 Q. Was this still with his face 8 down?	Trial rids Fill, Ed20 dollid?
	7 A. Continuing to escape. And then 8 he actually, I'm going to say posted. Meaning
9 A. Face in the dirt down? 10 Q. Yes.	9 that he put his hands into the ground in an
165.	10 attempt to stand up (indicating).
11 A. No. Facing to where he wanted to	11 Q. You are still wrapped around his
	12 thighs?
13 Q. Was his stomach, his chest still	13 A. Correct.
15 A. Yes.	14 Q. And you didn't let go?
163,	15 A. No.
16 Q. You are still on top of him?	l
741 165,	When he did that, that put his butt in my face, like this (indicating). And
18 Q. You say Sgt. Scimone is telling 19 you, Billy, get us help?	18 I'm using my hand referring to his butt in my
20 A. Yes.	19 face.
Tub.	Q. Yes. Then what happened?
what did you do at that time?	
	22 Q. You bit his butt?
walst of Kenny Lazo.	23 A. Yes.
24 Q. Still with the flashlight in your 25 and?	24 Q. How hard did you bite him?
	25 A. As hard as I could.
1 Judge	116
2 A. Yes.	Judge
3 Q. Then what happened?	2 Q. When he posted, as you said,
inde happened?	3 where was Sgt. Scimone?
4 A. I had gotten down really low on 5 Mr. Lazo (indicating). And I'm pointing to my	
6 thigh area. And I just rewrapped him again.	TO THE THE PROPERTY OF A MALE
7 And I said, I'm not letting go. I'm not	where he kind of used his hands to brace his
8 losing him. I'm not losing him, answering	' upper body, raising his head and his shoulders
9 Jimmy's question.	8 off the ground
10 Q. Jimmy being Sgt. Scimone?	⁹ A. Yes.
11 A. I apologize. Jimmy being Sgt.	10 Q and pushing his butt up
12 Scimone, yes.	11 towards your face and right into your face
13 Q. It is okay. So you reengaged him	12 Correct?
14 and wrapped your arms around his middle thigh?	13 A. Yes.
A. Between his knee above his	14 Q. So his hands were solidly in the
16 knee, below his hips.	19 ground posting you, right?
17 Q. Somewhere in the thigh area is	16 A. I guess, His butt was in my
18 that fair?	'' race. It is kind of hard to see exactly how
¹⁹ A. Sure.	10 ms nands were.
Q. Did you have a good hold around	19 Q. I want to go back to what you
1210 legs?	demonstrated. Did you actually see him post
²² A. Yes.	as you described it?
23 Q. As you said I'm not letting go,	22 A. No.
what next nappened?	Q. Okay. Did you
25 A. Det. Newton went back to the	A. I did not see him physically
29 of 36 sheets Page 113 to	125 post.
	12/06/2010 10-26-56 AM

ONZA	LEZ -V- COUNTY OF SUFFOLK	119
		1 Judge
1	Judge	2 A. Det. Newton put a cuff on his
2	But for his butt to be in my	his left
3	face, the only way would be by him attempting	4 hand.
4	to stand up.	I took my cuff out. I attached
5	Q. Well, you had his legs. So his	6 it to the end of Det. Newton's handcuff to
6	legs were not underneath him.	7 reach the right hand of Mr. Lazo.
7	My question is: You were on top	8 Q. Did you reach his right hand?
8	of his legs, right?	a A. I don't know if I don't really
9	A, Yes.	10 recall if I put the right cuff on him, or Sgt.
10	Q. So, when you say that he posted,	11 Scimone did.
11	those were your words, so that was an	Q. Did someone cuff his right hand?
12	assumption on your part?	13 A. Yes.
13	A. Yes, it is, Mr. Brewington.	14 Q. Was this a rear cuffing at this
14	Q. So, as you bit him, did you bite	15 time?
15	him on one side or the other of his butt?	16 A. Yes.
16	A. His left side.	17 Q. This would have been when he
17	Q. What happened as you bit him?	to the did you let go of your thigh
18	A. Nothing.	18 stopped fighting, and you let go of your amyon
19	Q. Did he respond?	A At ama point yes I did. Of
20	A. No.	
21	Q. Did he say anything?	a rought go back You said
22	A. No.	- d Schting
23	Q. How many times did you bite him?	To the book on you let do of the
24	A. Once.	
25	Q. Then what happened?	25 thigh hold? 120
	118	Judge
1	Judge	A When Dot Newton came back and
2	A. Det. Newton came back. And he	Mr Lazo's left hand,
3	said. They are coming. Help is coming.	4 that is when then I reached up, hooked my
4	O. By the time Det. Newton had gone	and the later and naccod it off.
1 :	and come back, what had Sgt. Scimone done, if	Like T said T don't remember II
1.	anything, based on your observations, to	and the second or if I gave it to
	r engage Kenny Lazo?	hand did det
- ;	A. I just heard screaming. I just	as a surface t did it or Mr. Scimone, I
	heard Sgt. Scimone screaming.	
1	Q. You didn't actually see him touch	2 Year your cuffs on your belt?
1		
1	2 A. No.	a vous bolt do you keen
- 1	Q. But he is standing nearby,	1 ·-
1	4 correct?	14 your cuffs? 15 A. On my left side.
1	5 A. Sgt. Scimone?	a second sufficiency of the control of
1	6 Q. Yes.	' · ·
	7 A. Yes.	17 in a sheath? 18 A. In a case, snapped case.
l l	8 Q. Then what happened?	a pre-mad to ac a sheath?
- 1	9 A. Det. Newton came back.	A 3/-
l l	Q. After that. He came back and	20 A. Yes.
	said, They are coming, they are coming.	21 Q. So you had to unsnap your case,
- 1	A. He just stopped fighting.	22 take the cuffs out? 23 A. I think at the time I think I
- 1	23 Mr. Lazo just stopped fighting.	23 A. I think at the time I think I
	• The what did you do when he	24 had a Velcro. So it was just a matter of
- 1	24 Q. Then what did you do when he	25 lifting the Velcro up.

25 lifting the Velcro up.

GONZALEZASE OZNOS CY-01023-ST Document 70-4	Filed 01/09/19 Page 96 of 286 PageID #: 2117
121	WILLIAM JUE
Judge 2 Q. Either way you had to disaste	1 Judge
i l Licitei way voli had to disences	2 Q. You also said, all of us rolled
3 the apparatus that kept it in the case and get 4 e cuffs out?	3 off. Who else was on top of him?
5 A. Yes.	4 A. I refer to that, Det. Newton and
i es.	5 Sgt. Scimone went off.
7 to configure your cuffs around the cuff on the	6 Q. When you say went off, backed
8 left hand, or one cuff?	7 off?
9 A. Just one.	8 A. I don't know what they did. I
10 Q. Snapped it on?	3 Have no idea.
11 A. Flip it and hook.	10 Q. Were they in contact with
12 Q. Using one hand?	11 Mr. Lazo other than just cuffing him?
13 A. Yes.	A. Referring to being on his back
14 Q. What was your other hand doing?	13 like I was?
15 A. Taking the other part of the	14 Q. Any other physical contact that
16 cuff.	you saw between Det. Newton, Sot Scimons and
17 Q. So, in terms of engaging your	16 Mr. Lazo?
18 cuff with the other cuff, you used both hands;	17 A. I did not see any other any
19 is that correct?	Contact. I know they were going for his
20 A. Yes.	is liands. But to actually see it, no Tknow
21 Q. Was Mr. Lazo still underneath you	they were attempting to grab his hands up to
22 at that time?	- draft t see it.
23 A. Yes.	22 Q. When Officer Link approached,
Q. What level of resistance was he	what next happened?
25 poviding at that particular point?	24 A. We picked Mr. Lazo up. And we
122	25 were I was walking with Officer Link.
Judge	124
² A. None.	Judge
3 Q. Was he cuffed fully after you	Q. I want to go back for a second.
4 either cuffed him yourself or handed the cuff	When you picked him up how did
on to be cuffed?	4 you pick nim up?
6 A. Was he?	'" 4 loned nim to his side
7 Q. Did he become actually cuffed?	6 buttocks. He stood right up.
A. Yes.	7 Q. Then as you got him to his feet,
9 Q. It was with two sets of cuffs,	what next nappened?
10 correct?	'" Lazo Was Very irritated the
11 A. Correct.	was cursing, mother Fing us. And then The stand
12 Q. After he was cuffed, what	I handed him over to Officer Link And Table
is riappened next?	'2 lie nash t been searched. He hasn't been
14 A. I rolled over off of him. And I	The said I said. I'm going to the
15 thought I had broken my hand. And thou t	inospital, referring to me.
10 Tellember Joe Link walking up as Police Ossi	The you make any observations of
who was the first unit to respond.	I will Lazo at that time, that being any
res,	I socionations of his face, his head, or any
19 A. He walked up. I rolled off.	other portion of his body?
20 Basically all of us just rolled off And the	19 A. He had scratches and abrasions on 20 his face.
ysell and Officer Link picked Mr. Lazo up	zv ilis face,
Let's just go back for a second.	Atterer.
You said you rolled off That	instolenead area and his eve
was off his back?	23 drea.
25 A. After he was cuffed, un hum.	Did you see any blood?
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- And Children work to be a server of the se	12/06/2010 10-26-55 434

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SONZALEZ -V- COUNTY OF SUFFOLK

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125

Judge 1 What portions of his face had Q. 2 abrasions? 3

His forehead area. I believe it Α. 4 was the -- his right side of his forehead and 5 6

I could be wrong on the left or right side. I think it was right side.

Up until that time, did you see anyone else strike Mr. Lazo with a hand or any other instrument?

At what point? After he was Α. handcuffed?

Up to that time, other than you Q. striking him with a flashlight?

No, I did not make any Α. observations, no.

Up until the time that he was Q. handcuffed, you were essentially engaged with him so that you were touching him at all times; is that correct?

Correct. Α.

As he was being walked with Q. 23 Officer Link and you said that you were going 24 to the hospital, what did you do? 25

126

Judge I told Officer Link that he had Α. not been searched.

At that point I met with Sgt. Scimone to take me to Southside Hospital.

Did Sgt. Scimone take you to the Q. hospital?

7 Α. Yes. 8

In the car in which you had Q. 9

driven? 10

Yes. Α.

When was the last time you saw Q. 12

Mr. Lazo? 13

When I gave him to Officer Link. A.

14 Where was Mr. Lazo at the time Q. 15 that you saw him before you went to the hospital? 17

He was walking with Officer Link. Α.

18 What was the condition of his Q. 19

clothing at that time? 20 Jeans. I think he fought out of Α. 21 his shirt. I think he had an undershirt on.

Like an -- I just know it as a Ginnie T. A 23

white tank top, I guess. 24

- 12010 10-76-56 AM

You say fought out of the shirt, 25

Judge 1 when did that occur?

When he was trying to get out he Α. second time. After I released him, after had said, he'll get it out, he'll get it out.

After the time when he was Q. crawling forward?

Yes. Α.

And you were still on top of him, Q. correct?

10 Not directly on top of him. I Α. 11 was grabbing at him. And his shirt ripped 12 off. 13

His shirt? Q.

14 I think it was a sweatshirt Α. 15 maybe. 16

I just want to go back. You say Q. 17 he fought out of the shirt. I'm trying to 18 understand. 19

Did he actually disrobe himself, 20 or was that a result of you grabbing him? 21

That was a result of me trying to 22 grab him, attempting to stop his escape. 23

You ripped his shirt off? Q. 24

Not completely off, no. Α. 25

128

Judge

Partially off? Q.

Yes. Α.

When you handed him off to Q. 4 Officer Link, what was the status of his upper body clothing?

His shirt was ripped. He had the Α. 7 white -- I don't know what you call it, tank 8 top. Jeans. I have no idea. 9

Still have his shoes on? Q.

I don't know. A. 11

Did you ever see his shoes come Q. 12

off? 13

2

3

10

14

18

A. No.

After you handed him off to Q. 15 Officer Link, what further contact did you have with Kenny Lazo, if any, on that day? 17

Α.

Sir, at the time that you last Q. 19 saw Kenny Lazo, can you describe for me how he was walking? 21

A. Fine. 22

From the time that you last saw Q. 23 Kenny Lazo, can you describe for me when you 24

said he was MFing you and cursing, was his

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	ZALEZ -V- COUNTY OF SUFFOLK		135
	133	1	Judge
1	Judge	2 1	to that. It wasn't something that Jimmy had
2	Q. How did you learn that he had	3	on him all the time.
3	used a flashlight?	4	Q. Thank you for volunteering that.
4	A. I told him I hit him with a	5	But the question was: Had you
5	flashlight.	6	seen him with it that evening prior?
6	Q. What did Sgt. Scimone say?	7	A. Yes.
7	A. I had to too.	, ,	Q. At the time that you said to him
8	Q. What did Sgt. Scimone say about	•	that you were going to be the contact and he
9	hitting Mr. Lazo with a flashlight?	10	was going to go essentially on the passenger
10	A. I couldn't recall exactly.	11	side when you emerged from your car, did he
11	Q. Can you recall in sum and	12	have that flashlight?
12	substance if you can't recall exactly?	13	A. I don't believe so.
13		144	O When Det. Newton came to your
14	too.	15	window to speak with you, did Det. Newton have
15		16	that flashlight?
16	•	17	A. I don't know.
17	A. No.	18	Q. When, if at all, if you know, did
18	Q. At the time that you were hitting	19	Det. Newton allow Sgt. Scimone to borrow his
19	9 Mr. Lazo with your flashlight. Mr. Lazo's	20	flashlight?
20		21	A. I don't know.
2	a war war hitting him with a	22	Q. Did you ever hear anyone say, or
2:	2 Q. When you were hitting him with a	23	Sgt. Scimone say, Let me hold your flashlight,
2		24	let me borrow your flashlight?
- 1	4 hitting him?	25	A. No
2	5 A. Yes.		136
	ludaa	1	Judge
	At that time did you see anvone	2	Q. Did you see Det. Newton with his
1	2 Q. At that time did you see anyone	L	time that evening?
1	a strike Mr. Lazo in the head, that being the	3	flashlight out at any time that evening?
	3 strike Mr. Lazo in the head, that being the	3	A. No.
	strike Mr. Lazo in the head, that being thefront part of his head or in the crown area of	-	A. No. Q. When you learned that Sgt.
	 strike Mr. Lazo in the head, that being the front part of his head or in the crown area of his head? 	4	A. No.Q. When you learned that Sgt.Scimone had hit Mr. Lazo with his flashlight,
	 strike Mr. Lazo in the head, that being the front part of his head or in the crown area of his head? A. I did not, no. 	4 5	A. No. Q. When you learned that Sgt. Scimone had hit Mr. Lazo with his flashlight, what did you say?
	 strike Mr. Lazo in the head, that being the front part of his head or in the crown area of his head? A. I did not, no. Q. At any time before Mr. Lazo was 	4 5 6	A. No. Q. When you learned that Sgt. Scimone had hit Mr. Lazo with his flashlight, what did you say? A. I didn't say anything.
	 strike Mr. Lazo in the head, that being the front part of his head or in the crown area of his head? A. I did not, no. Q. At any time before Mr. Lazo was released to Officer Link, did you see Sgt. 	4 5 6 7 8 9	 A. No. Q. When you learned that Sgt. Scimone had hit Mr. Lazo with his flashlight, what did you say? A. I didn't say anything. Q. Did you tell him that you didn't
	strike Mr. Lazo in the head, that being the front part of his head or in the crown area of his head? A. I did not, no. Q. At any time before Mr. Lazo was released to Officer Link, did you see Sgt. Scimone hit Mr. Lazo with his flashlight?	4 5 6 7 8 9	A. No. Q. When you learned that Sgt. Scimone had hit Mr. Lazo with his flashlight, what did you say? A. I didn't say anything. Q. Did you tell him that you didn't see that?
- L	strike Mr. Lazo in the head, that being the front part of his head or in the crown area of his head? A. I did not, no. Q. At any time before Mr. Lazo was released to Officer Link, did you see Sgt. Scimone hit Mr. Lazo with his flashlight? A. No. On the did you see Sgt. Scimone	4 5 6 7 8 9 10	A. No. Q. When you learned that Sgt. Scimone had hit Mr. Lazo with his flashlight, what did you say? A. I didn't say anything. Q. Did you tell him that you didn't see that? A. No.
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	strike Mr. Lazo in the head, that being the front part of his head or in the crown area of his head? A. I did not, no. Q. At any time before Mr. Lazo was released to Officer Link, did you see Sgt. Scimone hit Mr. Lazo with his flashlight? A. No. Q. Sir, did you see Sgt. Scimone with a flashlight that evening?	4 5 6 7 8 9 10 11 12	A. No. Q. When you learned that Sgt. Scimone had hit Mr. Lazo with his flashlight, what did you say? A. I didn't say anything. Q. Did you tell him that you didn't see that? A. No. Q. Did you ask him where he hit Mr. Lazo?
	strike Mr. Lazo in the head, that being the front part of his head or in the crown area of his head? A. I did not, no. Q. At any time before Mr. Lazo was released to Officer Link, did you see Sgt. Scimone hit Mr. Lazo with his flashlight? A. No. Q. Sir, did you see Sgt. Scimone with a flashlight that evening? A. Earlier, yes.	4 5 6 7 8 9 10 11 12 13	A. No. Q. When you learned that Sgt. Scimone had hit Mr. Lazo with his flashlight, what did you say? A. I didn't say anything. Q. Did you tell him that you didn't see that? A. No. Q. Did you ask him where he hit Mr. Lazo? A. No. Q. Che with regard to the
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	strike Mr. Lazo in the head, that being the front part of his head or in the crown area of his head? A. I did not, no. Q. At any time before Mr. Lazo was released to Officer Link, did you see Sgt. Scimone hit Mr. Lazo with his flashlight? A. No. Q. Sir, did you see Sgt. Scimone with a flashlight that evening? A. Earlier, yes. Q. Describe it, please. A. A black flashlight.	4 5 6 7 8 9 10 11 12 13	A. No. Q. When you learned that Sgt. Scimone had hit Mr. Lazo with his flashlight, what did you say? A. I didn't say anything. Q. Did you tell him that you didn't see that? A. No. Q. Did you ask him where he hit Mr. Lazo? A. No. Q. Sir, with regard to the flashlight that you used to hit Mr. Lazo, have
	strike Mr. Lazo in the head, that being the front part of his head or in the crown area of his head? A. I did not, no. Q. At any time before Mr. Lazo was released to Officer Link, did you see Sgt. Scimone hit Mr. Lazo with his flashlight? A. No. Q. Sir, did you see Sgt. Scimone with a flashlight that evening? A. Earlier, yes. Q. Describe it, please. A. A black flashlight. Q. About how long, sir?	4 5 6 7 8 9 10 11 12 13 14 15 16	A. No. Q. When you learned that Sgt. Scimone had hit Mr. Lazo with his flashlight, what did you say? A. I didn't say anything. Q. Did you tell him that you didn't see that? A. No. Q. Did you ask him where he hit Mr. Lazo? A. No. Q. Sir, with regard to the flashlight that you used to hit Mr. Lazo, have you seen that flashlight since this incident?
	strike Mr. Lazo in the head, that being the front part of his head or in the crown area of his head? A. I did not, no. Q. At any time before Mr. Lazo was released to Officer Link, did you see Sgt. Scimone hit Mr. Lazo with his flashlight? A. No. Q. Sir, did you see Sgt. Scimone with a flashlight that evening? A. Earlier, yes. Q. Describe it, please. A. A black flashlight. Q. About how long, sir? A. I wouldn't know.	4 5 6 7 8 9 10 11 12 13 14 15	A. No. Q. When you learned that Sgt. Scimone had hit Mr. Lazo with his flashlight, what did you say? A. I didn't say anything. Q. Did you tell him that you didn't see that? A. No. Q. Did you ask him where he hit Mr. Lazo? A. No. Q. Sir, with regard to the flashlight that you used to hit Mr. Lazo, have you seen that flashlight since this incident? A. The exact flashlight?
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	strike Mr. Lazo in the head, that being the front part of his head or in the crown area of his head? A. I did not, no. Q. At any time before Mr. Lazo was released to Officer Link, did you see Sgt. Scimone hit Mr. Lazo with his flashlight? A. No. Q. Sir, did you see Sgt. Scimone with a flashlight that evening? A. Earlier, yes. Q. Describe it, please. A. A black flashlight. Q. About how long, sir? A. I wouldn't know. Q. Do you recall seeing it? A. Sure.	4 5 6 7 8 9 10 11 12 13 14 15 16	A. No. Q. When you learned that Sgt. Scimone had hit Mr. Lazo with his flashlight, what did you say? A. I didn't say anything. Q. Did you tell him that you didn't see that? A. No. Q. Did you ask him where he hit Mr. Lazo? A. No. Q. Sir, with regard to the flashlight that you used to hit Mr. Lazo, have you seen that flashlight since this incident? A. The exact flashlight? Q. Yes. A. I might have seen it at Grand
	strike Mr. Lazo in the head, that being the front part of his head or in the crown area of his head? A. I did not, no. Q. At any time before Mr. Lazo was released to Officer Link, did you see Sgt. Scimone hit Mr. Lazo with his flashlight? A. No. Q. Sir, did you see Sgt. Scimone with a flashlight that evening? A. Earlier, yes. Q. Describe it, please. A. A black flashlight. Q. About how long, sir? A. I wouldn't know. Q. Do you recall seeing it? A. Sure. Q. Sgt. Scimone was in your car on	4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 20 20	A. No. Q. When you learned that Sgt. Scimone had hit Mr. Lazo with his flashlight, what did you say? A. I didn't say anything. Q. Did you tell him that you didn't see that? A. No. Q. Did you ask him where he hit Mr. Lazo? A. No. Q. Sir, with regard to the flashlight that you used to hit Mr. Lazo, have you seen that flashlight since this incident? A. The exact flashlight? Q. Yes. A. I might have seen it at Grand Jury.
	strike Mr. Lazo in the head, that being the front part of his head or in the crown area of his head? A. I did not, no. Q. At any time before Mr. Lazo was released to Officer Link, did you see Sgt. Scimone hit Mr. Lazo with his flashlight? A. No. Q. Sir, did you see Sgt. Scimone with a flashlight that evening? A. Earlier, yes. Q. Describe it, please. A. A black flashlight. Q. About how long, sir? A. I wouldn't know. Q. Do you recall seeing it? A. Sure. Q. Sgt. Scimone was in your car on that evening; is that correct? A. He borrowed the flashlight when	4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 20 22	A. No. Q. When you learned that Sgt. Scimone had hit Mr. Lazo with his flashlight, what did you say? A. I didn't say anything. Q. Did you tell him that you didn't see that? A. No. Q. Did you ask him where he hit Mr. Lazo? A. No. Q. Sir, with regard to the flashlight that you used to hit Mr. Lazo, have you seen that flashlight since this incident? A. The exact flashlight? Q. Yes. A. I might have seen it at Grand Jury. Q. Do you know what condition it was
	strike Mr. Lazo in the head, that being the front part of his head or in the crown area of his head? A. I did not, no. Q. At any time before Mr. Lazo was released to Officer Link, did you see Sgt. Scimone hit Mr. Lazo with his flashlight? A. No. Q. Sir, did you see Sgt. Scimone with a flashlight that evening? A. Earlier, yes. Q. Describe it, please. A. A black flashlight. Q. About how long, sir? A. I wouldn't know. Q. Do you recall seeing it? A. Sure. Q. Sgt. Scimone was in your car on that evening; is that correct? A. He borrowed the flashlight when	4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 20 21 21	A. No. Q. When you learned that Sgt. Scimone had hit Mr. Lazo with his flashlight, what did you say? A. I didn't say anything. Q. Did you tell him that you didn't see that? A. No. Q. Did you ask him where he hit Mr. Lazo? A. No. Q. Sir, with regard to the flashlight that you used to hit Mr. Lazo, have you seen that flashlight since this incident? A. The exact flashlight? Q. Yes. A. I might have seen it at Grand Jury. Q. Do you know what condition it was in?
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GONZALESSE COUNTY GY-01023-ST Document 70-4 F	Filed 01/09/19 Page 100 of 286 PageID #: 2121
137	WILLIAM JU
Judge	139
² A. Yes.	Jugge
Q. Did you see Sgt	2 testimony, was it as detailed as we have just
MR. BREWINGTON: Withdrawn.	o gone anough?
Did you see the flashlight that	4 A. By whom? Who are you referring
6 Sgt. Scimone had utilized on that evening in	5 to who I was talking to?
7 the Grand Jury as well?	6 I don't understand the question.
8 A. No. I don't recall. No.	7 Q. When you were in the Grand Jury
9 Q. Now Sir Voll word interest	8 and you testified
9 Q. Now, sir, you were interviewed by 10 I believe Internal Affairs; is that correct?	9 A. In the actual room of the Grand
11 A. I was not interviewed to	10 Jury?
11 A. I was not interviewed by Interr	!
1 l. =	
The Control Middle annearing in the Control	12 as detailed as we are going through right now? 13 A. Yes.
1 d 3di y, were you ever interviewed by anyone	res.
is else, other than the Grand Jury and myrals	14 Q. I think I'm done. Give me one
The folday, about the particulars of this	1
incluency	ONNE: Sure.
¹⁸ A. No.	on the record.
Just to make this clear	(Discussion off the record.)
20 Q. Yes.	With regard to either of the
21 A other than Grand Jury?	statements that you have given in writing to
22 Q. Yes.	- the Department, whether it is Internal Affaire
23 A. No.	Viterever it went, you indicated you warn to
24 Q. You submitted a written statement	1 - 9 dute sale where it went, but it went to the
out this incident; is that correct?	24 Department, has anyone asked you any questions
	25 about either of those statements?
1 Judge	
2 A. Correct.	1 Judge
	2 A. No.
3 Q. How many written statements did4 you submit?	1 -
[н 🙎	MR. DUNNE: You mean, of course, other than me?
1 400.	m
I WIND AND A SHOULD THOSE	MR. BREWINGTON: Anyone
, written statements?	6 MR. DUNNE: He is aware that our
Titternal Affairs,	conversations are privileged. He is
Doth to Internal Affairs?	diswering from that perspective.
10 A. No. One was to our department.	Culei than speaking to your
The strow where it goes,	iv actorney?
12 Q. After submitting your written	140.
statement to Internal Affairs, anybody ask trace	I BREWINGION: I have no
1.7 dify questions about the details of that	further questions for this witness.
is statement?	(Time noted: 1:15 n.m.)
16 A. No.	10
17 Q. Anybody ask you, as I have been	16
18 going through more of the details, today,	17
19 anybody ask you questions similar to the ones	18
20 I'm asking you?	19
	20
21 Jury?	21
23 Q. Yes.	22
0.4	23
140	24
25 Q. With regard to your Grand Jury	25
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Managing product or complete Segment and an action of the complete Segment and the complete Segm	12/06/2010 10:26:56 AM

10 11 12 2008 up to and including any final IN WITHESS WHEREOF, I have 17 transmissions as they may exist 20 hereunto set my hand this 3rd day of 18 concerning this matter on that December, 2010. 19 22 subject day, including, but not 20 limited to, any transmissions made 24 21 FLORENCE SYSKROT from and/or to the precinct at the 22 time of Mr. Lazo coming into the 23

Third Precinct

24

25

	4	addition [1] - 15:	12				
106(4) - 24.6		address [2] - 4:1	n	appear [1] - 63;1	2	assumed [1] - 44	1:47 2
90[1]-31.0	4 [1] - 142:4	50:4	, !	appeared (2) - 14	4:8,	assuming (1) - 5	4:20
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'98ish [1] - 18:11	5	137:12, 138:8, 138	.9			attempting [4] -	
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11	1:25	38:6, 38:12	i ,	apprehension [1] 37:20	-	attend [3] - 14:19,	
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1 [5] - 10:15, 10:17	556 m - 2.5	aftermath [1] - 23:	15	apprised [1] - 55:1	19	attention [2] - 33:1	17,
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1-10[1] - 1:12	6	18:7, 18:8		approached [5] -		ATTORNEY [3] -	
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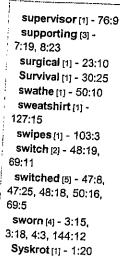
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EXHIBIT P

GONZALEZ -V- COUNTY OF SUFFOLK

DET. JOHN NEWTON - 1/6/2011

CONDENSED TRANSCRIPT AND CONCORDANCE PREPARED BY:

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
                               FATRICIA GONZALEZ and JENNIFER GONZALEZ, individually and as to-administrators of the Estate of KENNY LAZC, Plaintiffs, - against -
                            Planniffs,

- adainst -

COUNTY OF SUFFOLK, SUFFOLK POLICE DEPARTMENT, POLICE
CONNISTORE RICHARD DORMER, in his individual and
official impactry, FOLICE OFFICER JOHN MEMTON, in his
individual and official capacity, FOLICE OFFICER
JAMES SCIMONE, in his individual and official
capacity, POLICE OFFICER WILLIAM JUDGE, in his
individual and official capacity, POLICE OFFICER
CHRISTOPHER TALT, in his individual and official
capacity, POLICE OFFICER LINK, in his individual and
official capacity, COUNTY OF SUFFOLK OFFICE OF
DISTRICT ATTORNEY, SUFFOLK COUNTY DISTRICT ATTORNEY
THOMAS SPOTA, in his individual and official capacity,
ASST. DISTRICT ATTORNEY JOHN B. COLLINS, in his
individual and official capacity, and "JOHN AND JAHE
DOES 1-10" representing as yet unknown and
unidentified members of the Office of the Suffolk
County District Attorney (all in their Individual and
official capacities as employees of the Office of
Suffolk County District Attorney),
Defandants.
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26
                                                                         Deposition of the Defendant, DET.
                                                                                                                                                                                                                                                                                18
                             JOHN NEWTON, pursuant to Notice, before
Florence Syskrot, a Notary Public of the State
of New York.
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3
      IT IS HEREBY STIPULATED AND
AGREED by and between the attorneys
for the respective parties herein,
that the filing, sealing and
certification of the within deposition
be waived.
      IT IS FURTHER STIPULATED AND
AGREED that all objections, except
as to the form of the question,
shall be reserved to the time of the
      IT IS FURTHER STIPULATED AND
AGREED that the within deposition
may be sworn to and signed before
any officer authorized to administer an
oath with the same force and effect as
if signed and sworn to before the
Court.
            - 000 -
```

2 APPEARANCES: 3 LAW OFFICES OF FREDERICK K. BREWINGTON Attorneys for PlaintIffs 556 Peninsula Boulevard 6 Hempstead, New York 11550 7 BY: GREGORY CALLISTE, JR., ESQ. 8 - and -9 WILLIAM GERMANO, ESQ. 10 11 SUFFOLK COUNTY ATTORNEY 12 CHRISTINE MALAFI, ESQ. 13 Attorney for Defendants 14 100 Veterans Memorial Highway 15 Hauppauge, New York 11788-0099 BY: RICHARD T. DUNNE, ESQ. 16 17 18 ALSO PRESENT: 19 P.O. William Judge 20 Det. Christopher Talt Sqt. James Scimone Jennifer Gonzalez

```
1
    DET. JOHN NEWTON,
                                     called as a
        witness, having been duly sworn by a
        Notary Public, was examined and
 5
        testified as follows:
 6
    EXAMINATION BY
 7
    MR, CALLISTE:
 8
         Q.
               Please state vour name.
 9
         A.
               Det. John Newton.
10
         O.
               What is your present address?
11
               Suffolk County Police Department,
12
   Third Precinct, 1630 Fifth Avenue, Bay Shore,
13
   New York 11706.
14
         Q.
               Good morning, Detective.
15
         A.
               Good morning.
16
               My name is Gregory Calliste, Jr.
17
   I'm an associate at the Law Offices of
   Frederick K. Brewington. We represent the
18
19
   deceased plaintiff, Kenny Lazo, and his
20
   family, and his estate in a law suit that was
21
   filed against the County of Suffolk, Suffolk
22
   County Police Department, and other individual
23
   officers, including yourself.
               Today we are going to conduct
```

your deposition, as you have been named in the

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6

GONZALEZ -V- COUNTY OF SUFFOLK

5

Newton vou mentioned earlier?

complaint to find out what information you may 2 have relevant to the complaint. 3

Newton

Have you ever sat in on

5 deposition before?

4

6

18

20

Α. Yes.

Q. 7 So you are familiar with the ground rules of a deposition. Generally we 8 ask that you keep all of your responses to my 9 question verbal. As you can see we have a 10 court reporter here. She cannot interrupt 11

gestures such as head nods. 12 13 If you don't understand a

14 question that I ask, please let me know. Ask

15 me to rephrase. I can rephrase it.

If you need to speak to your 16 attorney, or you need to take a break for any 17 reason, we can take a break at any time.

I just ask that if there is a 19

question on the table pending, so to speak,

that you answer that question first. Same 21

22 thing with respect to if you want to speak to

your attorney. I ask if there is a question 23

24 pending, just answer the question first.

25 Α. Okay.

Α. It wasn't arrest paperwork. I picked up the case on the original drug possession, which was a separate case from the drug investigation.

> MR. DUNNE: I will make it easy. Those items that he is referring to are attachments to the Internal Affairs' report. There is a lab report. There was other incidental stuff in addition to what happened at the incident.

The stuff that he is referring to are all attachments to the reports that you guys got.

If you go through them, you will see that there is some reference to the narcotics that were recovered, and tests, and things that were done subsequent to that. I think that is what the detective is referring to.

Sir, in preparation for this deposition today, did you have any discussions with anyone, other than your counsel?

25 Α. No.

8

DET. JOHN NEWTON

Newton 1

Q. Sir, have you taken any 2 medications or any substances that would 3

impair your ability to answers questions

5 today?

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Α. No.

Q. 7 Did you review any documents in preparation for this deposition today? 8

> Α. Yes.

Q. What documents did you review?

Α. Paperwork that I submitted for 11

12 this case.

> Q. When you say paperwork that you submitted for this case, what exactly -- what

paperwork are you referring to? 15

Α. A supplemental report. A 42, which is an internal correspondence that I sent to Internal Affairs, and paperwork with reference to the initial case of the drug possession.

21 MR. CALLISTE: Let's take a

22 break.

23 (Recess taken.)

24 Q. Sir, you referred to arrest

paperwork that related to the drug sale which

Newton

2 Q. What is your date of birth?

> Α. July 2, 1957.

Q. Your highest level of education?

I have a four-year degree from

6 Southampton College.

(Miss J. Gonzalez present at this

8 time.)

9 Q. When did you obtain that degree?

What year? 10

> Α. I graduated in 1979.

12 Q. Was there a particular course of study that you underwent when you were at 13

14 Southampton College?

> Α. I concentrated on Criminal

Justice.

Do you currently have a degree in 17 Q. 18 Criminal Justice from that university?

19

I have a degree in Social Science with a concentration in Criminal Justice. 20

21 Q. Do you have any professional

licenses or certifications? 22

> A. No.

24 Q. Have you ever served in the

25 military?

Q. Have you ever held any other ranks or titles with the Suffolk County Police Department?

A. I was a Police Officer.

Q. How long did you serve as a police officer?

A. Approximately ten years.

Q. While you were serving as a police officer, did you have any titles or ranks higher than a police officer?

23 A. Yes.

Q.

months.

Suffolk?

A.

No.

Q. Did you work at any particularlocation or facility at the time that you

I'm sorry. I was a Deputy

Was that also in the County of

Sheriff, again, for a brief time. Three, four

3 of 47 sheets

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GONZALEZ -V- COUNTY OF SUFFOLK

DET. JOHN NEWTO

GOW	ZALLZ -V- 000N				DET. JUHN NE	
		13			15	
1	Newton		1	Newton		
2	served as a Deputy Sheriff?		2	Suffolk County Police Department, did you have		
3	A. I worked out of the Riverhead		3	any particular title?		
4	_	ras in Transportation.	4	Α.	Evidence Technician.	
5	Q,	In your duties in your	5	Q,	Do you recall what years you were	
6	position in	Transportation	6	employed as		
7	_	MR. CALLISTE: Withdrawn.	7	A. From 1979 until I became a		
8	Q.	What were your duties in	8	Deputy.	1983.	
9	Transportation?			Q.	Prior to working as a civilian	
10	A. Transport prisoners back and			employee for the Suffolk County Police		
11		he court, doctors. Whatever	11	Department, where did you work?		
12	transport	ation they needed.	12	A.	Prior to that I went to college.	
13	Q.	Again, how long were you in that	13	I worked	d part-time at Buyrite Liquor Store in	
14	position?		14	Ronkonk	coma.	
15	A.	A brief time. Three or four	15	Q.	So, as a civilian employee	
16	months.		16	Evidence	Technician with the Suffolk County	
17	Q.	Do you recall what year or years?	17	Police De	partment, what were your duties?	
18	Do you red	call what year you worked in the	18	A.	Again, I assisted the detectives	
19	Sheriff's Department?		19	in handli	ing cases. I did fingerprint	
20	A.	1983.	20	analysis, courtroom testimony, and		
21	Q.	At that time were you still	21	photogra	aphed crime scenes.	
22	actively er	nployed by with the Suffolk	22	Q.	Did you ever have any supervisory	
23			23	authority	in that position?	
24	A.	This is prior to being a police	24	A.	No.	
25	officer.		25	Q.	What location did you work at	
		14			16	
1		Newton	1		Newton	
2	Q.	Prior to being a police	2	when you	were a civilian employee Evidence	
3	officer prior to being a police officer,		3	Tech?		
4	you worked in the Sheriff's Department?		4	A.	Police headquarters in Yaphank.	
5	A.	Correct.	5	Q.	Following your	
6	Q.	Was that immediately prior to	6		MR. CALLISTE: Withdrawn.	
7	.your		7	Q.	Did you graduate from the Police	
8		MR. CALLISTE: Withdrawn.	8	Academy	Academy of Suffolk County?	
9	Q.	Following your employment in the	9	A.	Yes, I did.	
10	Sheriff's of	fice, did you enter an academy,	10	Q.	Following your graduation from	
11	police academy?		11	the Suffol	k County Police Academy, would it be	
12	A.	Yes.	12	accurate t	to say that you went directly to the	
13	Q.	What academy did you attend?	13	Third Precinct, and that is where you have		
14	A.	Suffolk County Police Department.	14	been ever	since?	
15	Q.	Do you recall what year you	15	A.	Correct.	
16			16	Q.	Other than this current lawsuit	
17	·		17	here, have you ever been sued in your official		
18	A.	May of 1983.	18	capacity as a police officer with the Suffolk		
19	Q.	Prior to working in the Sheriff's	19		plice Department?	
20	•	t, did you have any other employment?	20	A.	Yes, I have.	
21	Α.	Prior to the Sheriff's	21	, .,	MR. DUNNE: Objection to this	
22		nt, I was a civilian employee with the	22	line	of questioning.	
23				Go ahead and answer.		
24	Police Dep	-	23 24	A.	Yes, I have.	
•			1	, .,	,	

As a civilian employee with the

Q.

How many times? Do you recall?

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18 Newton

Detective Michael O'Connor. Q. Anyone else?

And Detective Nancy Doroughty. There might have been others involved, but I don't recall.

8 Q. With respect to Detectives 9 O'Connor and Doroughty, are those also detectives out of the Third Squad? 10

11 Α. At the time we all worked in the Third NESOT. They no longer work there. 12

Q. Do you recall the sum and

substance of the allegations in that complaint? What was alleged by the plaintiff?

16 Α. She alleged that we made an improper strip search at the precinct. 17

18 Do you know what court that matter proceeded in? Was it in Federal Court? 19 20 Supreme Court?

Α. Yes, Federal Court.

Q. As of today, do you know if that

23 case is still active?

> Α. No, it is not.

Q. What was the outcome of that 1 Newton

Ż plaintiff in that suit? 3

Α. I can give you the address. No.

Q. 4 Do you know what court that 5 matter proceeded in?

A. That was also Federal Court.

7 Q. Besides yourself, were there other individuals named in that lawsuit, 9 officers?

10 Α. I don't know if they were named. I was named by name. And again, there was 11 12 John Does.

13 Q. Do you recall what year that 14 action was filed?

Α. I don't know when it was filed. But we went to trial last year, 2009. Two years ago.

18 Q. Do you recall the name of the 19 judge in that matter?

Α. No, I do not.

21 Q. Do you know what the sum and 22 substance of the allegations are that were 23 made by the plaintiff in that case?

24 Yes. We conducted a search 25 warrant at his house. And he claimed that it

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officers?

Α.

Case 2:09-cv-01023-ST Document 70-4 Filed 01/09/19 Page 121 of 286 PageID #: 2142 GONZALEZ -V- COUNTY OF SUFFOLK DET. JOHN NEWTON 21 23 Newton Newton 1 was an improper search warrant. at the precinct? 2 2 Α. Q. What was the outcome of that 3 Yes. 3 Q. case? When you first received a copy of 4 Α. It was in our favor. this complaint, what did you do? 5 5 Α. I read it. Q. Was that after a full trial? 6 Α. A full trial, but it never went Q. At the time that you read the 7 7 to the jury. complaint, were you familiar with the 8

Q. To your knowledge, was the case 9 dismissed before the jury could deliberate 10 that case? 11

Α. Yes. It was dismissed by the 12 judge. 13

Q. The judge in that matter, was 14 that a male or a female? 15

> Α. Male.

Q. With respect to any of the 17 lawsuits that you just mentioned, were there 18 allegations of excessive force in any of those 19

cases? 20

16

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Α. No. 21

Q. 22 Besides the two lawsuits that you just mentioned, are there any other lawsuits 23 that you were named in? 24

Α. No. 25

22

Newton Have you ever been a party to any 2 lawsuits outside of your official duties as a 3 Suffolk County Police Officer?

Α. No. 5

MR. CALLISTE: Mark this. 6 (Newton Exhibit 1, Complaint, 7

marked for identification.) 8

Sir, I am placing before you what 9 has been marked now as Newton 1 (handing).

Do you have that document before

12 you, sir?

> Α. (Perusing.) Yes, I do.

With respect to the document, 14 have you ever seen this document and/or a

15 document that looked exactly like this before? 16

Α. Yes, I have. 17

Q. When did you first see that

document? 19

Α. Some time in the year of 2009. 20

Q. How did you come to first see 21

that document? 22

A. 23 It was sent to me via I believe interoffice mail. 24

Q. When you received that, were you 25

plaintiff, or the deceased plaintiff,

Mr. Lazo? 10

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Α. Yes.

Q. At the time that you read the 12 complaint, were you familiar with the incident 13 to which the complaint related to? 14

Α. Yes.

Q. Did you have any discussions with 16 anyone regarding the complaint at the time that you first read it?

> Α. No.

Q. After receiving the complaint, did you ever have any discussions with any of the named defendants in this complaint regarding the sum and substance or the allegations made in the complaint?

I don't understand what you are

Newton saying. Did I talk to anybody? 2

Q. Yes.

Α. Yes.

Q. Who did you talk to?

A couple of guys that are named 6 in this complaint. I wanted to know if they received the complaint too. 8

> Who did you speak to? Q.

Detective Talt. And it says Α. 10 "Police Officer Scimone." But it is Sqt. 11 Scimone. 12

Q. What did you speak to Detective Talt about?

Α. I just wanted to see if they had received it too.

Did you have any discussions 17 regarding any of the allegations in the 18 complaint? 19

> Α. No.

Q. When you discussed whether Mr. -21 Police Officer -- Detective Talt received the 22 complaint, how did he respond, if at all?

23 He received the complaint. They Α. 24 both did. 25

GONZALEZ -V- COUNTY OF SUFFOLK

DET. JOHN NEWTO

25 27 1 Newton 1 Newton 2 Q. Did you have those conversations 2 narcotics investigations. We also assist our 3 with Detective Talt and Sgt. Scimone on the 3 narcotics units. That would be our duties all same day? the time. 4 Α. I don't recall. 5 Q. Besides investigating drug 6 Q. I would like to draw your complaints and dealing with narcotics related attention to April 12, 2008. At that time you issues, did you also investigate other were employed by the Suffolk County Police 8 8 matters? Department; is that correct? 9 9 A. We would be assigned, if Α. Yes, I was. 10 necessary, to specific areas concerning 10 11 Q. At that time your rank or your robberies, burglaries, that sort of thing. 11 title was Detective? 12 That would be up to the discretion of the Α. 13 Correct. **Detective Lieutenant.** 13 14 Q. On April 12, 2008, were you 14 Q. Does the Third Squad have a unit working that day? 15 that deals particularly with robberies, and 16 Α. Yes, I was. 16 burglaries, and those sort of matters? Q. 17 Α. What were the hours of your tour 17 No. 18 that day? Q. 18 At the time, in April of 2008, 19 Α. I was working a 5:00 p.m. to 1:00 would it be accurate to say that your duties 19 20 a.m. tour. were mostly involved with narcotic-related 20 21 Q. Did you work that same tour or 21 offenses? those same hours every day at that time? 22 22 Α. That's correct. 23 Α. No. 23 Q. Did you have a partner at that 24 Q. Did you have a specific schedule time? 24 at that time in terms of tours and hours 25 Α. Yes, I did. 26 28 Newton 1 1 Newton worked? 2 2 Q. Who was your partner at that 3 Α. Yes. 3 time? Q. 4 Can you recall as you sit here 4 A. Detective Christopher Talt. today what those hours were? 5 5 Q. Now, was Detective Talt your 6 We worked a Tuesday through partner on a daily basis? 6 7 Saturday, 9:00 am to 5 p.m., five days, off 7 Α. We worked mainly together. But for two. And then we work a 5:00 p.m. to 1:00 8 there is a three-man team with a Detective 9 a.m. tour, five days, off for two. Sergeant. So when Detective Talt is off, or 10 Did you have any particular duty I'm off, we assist with the other detective. 10 11 or assignment on that date, April 12, 2008, Q. 11 What was that detective's name? 12 that you can recall? Α. 12 Thomas Wisely. 13 Α. No. Q. 13 Was Detective Wisely, if you can Did you have any specific or 14 14 recall, on that day, April 12, 2008? particular detail that you were placed on on 15 15 Α. I don't believe he was. 16 that date? 16 Q. Do you recall having any Α. 17 No. 17 discussions with Detective Wisely on that day? Q. 18 What were your duties as a Α. 18 Detective with the Third Squad on April 12, Q. 19 Now with respect to the NESOT

Detective are, we handle drug complaints that occur in the Third Precinct area. We do drug surveillances of known or drug locations. We attempt to do surveillances of street

22

A. Well, when I became a member of NESOT out of the Narcotics Division. It would have been out of the Third Squad. I applied for and was transferred to that unit.

My duties as Third Squad NESOT

20

2008?

Α.

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21

that makes sense?

Unit, how did you become a member of NESOT, if

GONZALEZ -V- COUNTY OF SUFFOLK

DET. JOHN NEWTON

29 31 Newton Newton 1 1 Was this a written application? Q. conducting search warrants, conducting vehicle 2 2 Α. Written transfer application, 3 and traffic enforcement -- I mean traffic yes. stops. They also assist us when we have to 4 Q. 5 After you filed the application work with Narcotics. 5 to be transferred into NESOT, what, if 6 6 Q. Now, is COPE a specialized unit anything, took place? 7 for uniformed officers in the same way that 7 A. **Eventually I went to NESOT.** NESOT is a specialized unit? 8 8 Q. Did you have to be interviewed 9 9 Α. I guess you could say so, yes. pursuant to that application? 10 10 Q. Do you know if police officers A. 11 Yes. 11 have to apply to become members of COPE? 12 Q. Did you have to undergo any I would assume they do, yes. 12 Α. training to be a part of or a member of NESOT? 13 Q. Do you know for sure as you sit 13 A. No. 14 14 here today? Q. Did you have to have any 15 15 Α. No. particular skills before applying to enter 16 16 MR. CALLISTE: Off the record. 17 NESOT? 17 (Discussion off the record.) Α. Q. 18 No. 18 So, on April 18, 2008, you began Q. 19 Do you recall what year you 19 work at 5:00 p.m.? became a member of NESOT? 20 20 MR. DUNNE: You said 18th. You 21 Α. 1999. 21 meant 12th? Q. 22 Would it be accurate to say that. 22 MR. CALLISTE: Right. you have maintained your membership in NESOT, 23 23 Q. On April 12, 2008 you began work in that division, from 1999 to the current 24 24 at 5:00 p.m. What was the first thing you did 25 date? 25 when you went to work, if you recall? 30 32 1 Newton 1 Newton A. 2 Yes. 2 I go into the precinct. I sign Q. 3 Sir, have you ever heard of COPE? 3 in. And I don't recall what I exactly did. 4 Α. Yes, I have. Q. 4 Do you have specific duties set Q. What is COPE? 5 at the time that you go to work each day? In Α. It is a uniform patrol unit that 6 other words, do you know what it is that you works out of each precinct. 7 are going to be doing on that particular day? 8 Q. Just for the record, what does Α. 8 No. COPE stand for? 9 Q. 9 How are assignments assigned to Α. I believe it is Community 10 you on a daily basis? Oriented Policing Enforcement. I'm not sure. 11 11 Α. They are not. We don't have any Have you ever been a member of 12 12 assignments assigned. COPE? 13 13 Q. How do you know what your duties Α. 14 will be on any particular day? 14 Q. 15 Do you know what the duties or Our duties can change at any 15 the mission of the COPE Unit is? 16 time. We can go out and do street 17 I think they patrol high priority 17 surveillance. We can conduct search warrants. areas that, again -- that are up to the It depends on that particular day. 18 18 discretion of the Inspector or the bosses of 19 19 That particular day we didn't 20 the precinct. have any particular assignment. 20 21 Q. 21 Does your department, NESOT, work Q. How are assignments assigned to 22 closely with COPE? particular officers? 22 Α. 23 Yes, we do. 23 A. They are not.

Q.

In what way?

They assist us on, again,

24

25

24

Q.

How do officers know what they

are going to be doing any particular day? Do

that?

A.

I believe at that time we had a

strobe light on one of the visors, passenger

23

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24

25

Q.

complaints were?

Do you recall what those

My partner, Detective Talt, had

GONZALEZ -V- COUNTY OF SUFFOLK 37 Newton 1 received a complaint that there was a subject 2 in the area or subjects in the area doing deals out of parking lots, streets, side streets off of Sunrise Highway. 5 Q. Do you know how Detective Talt 6 7 got those complaints? Α. No. 8 Q. 9 Do you know who made those

10 complaints?11 A. No.

12 Q. Do you know when in relation to

13 April 12, 2008 Detective Talt got that

14 specific complaint about drug sales in that

15 area?

17

16 A. No.

Q. Do you know if that complaint

18 came in that same day?

19 A. No.

Q. Do you know if there were anyinvestigations conducted into that complaint

22 prior to you going out to investigate it?

23 A. No.

24 Q. Did you personally do anything

25 with respect to investigating or doing some

- 38

Newtonpreliminary investigations in that area or

anything -- doing any preliminary

4 investigations regarding that complaint before

5 you went out on tour that day?

A. No.

Q. Do you know if Detective Talt

8 did?

3

6

7

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A. No, I do not.

10 Q. Do you know if anyone at the

11 Third Squad did any background information, or

12 research, or investigations in that area prior

13 to you going out that day?

14 A. No, I do not.

15 Q. Other than the information that

16 was received from the anonymous caller that

17 there were drug sales in parking lots and

18 such, did you have any other particular

19 information that you were looking up or

20 researching that day?

21 A. One of the calls was a subject

named Carlos dealing out of a dark colored,

23 newer Cadillac.

Q. Was this person named Carlos, was

25 his last name identified to you?

Newton

A. No.

3 Q. Do you know when the particular

4 complaint about this person named Carlos came

5 in?

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A. No, I do not.

Q. How are complaints received by

8 NESOT?

9 A. Most of the time they are done 10 via phone. We do get narcotics tips through

our Crime Stoppers.

12 Q. So, at the time that you went out

13 on your tour on April 12, 2008 with your

14 partner, were you going to investigate this

15 individual particularly named Carlos?

16 A. We weren't going to investigate
17 him in particular. We were headed out in that

18 direction to see what, if anything, was going

19 on in that area.

20 Q. At the time that you received the 21 complaint about this individual named Carlos,

22 did you have any prior knowledge about who

23 this Carlos was or may have been?

A. I did not personally, no.

25 Q. Did you know if any of the other

40

39

1 Newton

2 detectives did?

A. No.

4 Q. Did you do any research or

5 investigation regarding this Carlos individual

6 before you left the precinct?

A. No, I did not.

Q. Do you know if Detective Talt

9 did?

A. I don't know.

11 Q. Did you have any discussions at

12 all about this person named Carlos with

13 Detective Talt?

14 A. Yes.

15 Q. What discussions were those?

16 A. He advised me that he had gotten
17 a complaint about a subject named Carlos

18 dealing out of a dark colored Caddy.

19 Q. Besides that information, was

20 there any other information?

21 A. Regarding Carlos?

22 **Q.** Yes.

23 A. No.

24 Q. Did you have a description of

25 Carlos?

41 43 1 Newton 1 Newton 2 A. I believe he did. But I don't 2 radios. 3 recall. 3 What, if anything, were you Q. When you went out on tour on that saying, if you recall, to Detective Talt at day, April 12, 2008, did you know what Carlos the time that you were following this 6 looked like? individual prior to arriving at Pine Street? 7 A. No. 7 I told him I saw a dark colored 8 Q. Did you have a general 8 car parked in front of Herbie Dodge and we 9 description of Carlos? 9 were going to follow it. 10 Α. We might have. I just don't 10 Q. Was that all? 11 recall. 11 Α. Yes. 12 Q. During your patrol that evening, 12 Q. Did you discuss anything did there come a time that you came to see 13 13 regarding the car, such as the license plate 14 Mr. Kenny Lazo? 14 or anything like that? 15 Α. 15 A. I believe I did give over the 16 Q. Where were you when you first saw 16 license plate, but I don't recall the plate 17 Mr. Lazo? number. 17 18 Α. I didn't see Mr. Lazo. I saw the 18 Q. Do you recall running that plate? 19 car. First time I saw the car was on the 19 Α. No, I do not. 20 overpass at Higbie Lane at Sunrise Highway in 20 Q. Do you know if Detective Talt ran 21 West Islip. 21 that plate? 22 Q. At the time that you first saw 22 A. No, I do not. 23 the car, where was Detective Talt at that 23 Q. Do you know if any reports were 24 time? 24 ever made to the precinct with respect to Α. He was in a separate car behind 25 trying to determine the owner of the vehicle 42 44 1 Newton 1 Newton 2 me. 2 while you were following it? 3 Q. When you saw the car identified 3 Α. I don't believe there was any as the blue Cadillac, what, if anything, did 4 requests. 5 you do? 5 Q. The blue Cadillac, did it have 6 Α. I advised Detective Talt that I 6 tints? 7 had seen the car, and that we should follow 7 Α. Yes. 8 it. 8 Q. Were you able to observe the 9 Q. Did you follow the car? 9 subject inside the car? A. 10 Yes, we did. 10 Α. No, I was not. 11 Q. Where did you follow the car to? 11 Q. When you first saw the car, the 12 I followed the car to Pine Street off of the 12 blue Cadillac that you described, was there 13 service road in West Islip. I then broke off. any point that you were able to see who the 13 14 And Detective Talt followed the car. 14 driver of that car was? 15 Q. For how long did you follow that 15 Α. 16 car before the car made it to Pine Street? 16 Q. Now, you indicated that at some 17 Α. Only a couple of minutes, short 17 point you did see Mr. Lazo that day, correct? 18 period of time. 18 A. Correct. 19 Q. During the time that you were 19 Q. Did you know Mr. Lazo prior to 20 following this vehicle, were you in 20 April 12, 2008? communication with Detective Talt? 21 Α. No, I did not. A. Yes. 22 Q. Did you know of Mr. Lazo prior to 23 Q. How were you communicating with 23 April 12, 2008? 24 Detective Talt? 24 Α. Α. Over the Detective Band of our 25 Q. Do you know if Detective Talt, if

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GONZALEZ -V- COUNTY OF SUFFOLK

45

Newton you know, knew of Mr. Lazo before April 12,

2008? 3

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Α. I believe he did. Yes.

Q. What leads you to believe that

Detective Talt knew who Mr. Lazo was? 6

I believe he had gotten via the DEA, he had gotten Kenny Lazo's name, might

have been involved in a bigger drug ring. But

you would have to ask Detective Talt.

I'm asking you what you know with 11 respect to this, what you personally know. 12

> Α. Okay.

Q. Have you ever had any discussions

with Detective Talt regarding Kenny Lazo prior 15

to you going out on tour that day, April 12, 16

2008? 17

Α. No. 18

Q. 19 How did you come to learn that

Detective Talt may have gotten information 20

from the DEA regarding Kenny Lazo? 21

Α. We figured that out after this 22

incident. 23

Q. Prior to April 12, 2008, do you 24

know if there were any active investigations 25

Newton

being conducted by NESOT, or the DEA, or any 2

other agencies of the Suffolk County Police 3

Department into Kenny Lazo? 4

Α. As far as NESOT, there was not. 5

I can't say for the other units.

When NESOT gets information from Q. 7

other agencies regarding an individual who may 8

be a person of interest, what, if anything,

10 does NESOT do with respect to the name they

11 aet?

Α. We would do whatever that unit 12

asked us to do. 13

14 Q. Would you maintain files on the

individuals that you are investigating? 15

> Α. I don't know.

Q. Do you know if NESOT maintains 17

files? 18

16

19 Α. No.

Q. 20 Do you know if there was a file

21 regarding the information that was obtained

from the DEA on Mr. Lazo prior to April 12, 22

2008? 23

24

Α. No.

Q. Do you know if NESOT maintained 25

Newton

any sort of information regarding Mr. Lazo 2

prior to April 12, 2008? 3

> Α. I do not know.

Q. At some point you arrested

Mr. Lazo, correct? 6

> Α. Yes.

Q. Did you make any other arrests

that day? 9

> Α. No.

Q. Did you make any other stops that

day other than Mr. Lazo, which will we will 12

13 get to?

> Α. I don't recall making any other

15 stops.

Q. Besides investigating the blue or 16

the dark colored Cadillac, were you 17

investigating any other vehicles specifically, 18

or people? 19

> A. No.

Q. The person who made this 21

22 anonymous call regarding Carlos, do you know

if that person was ever identified by the 23

24 Suffolk County Police?

No, I do not. 25 Α.

48

47

Newton

Q. Were you or Detective Talt 2

familiar with anyone that may have fit the 3

description of the person that was given by

5 the informant, if you will?

If I understand your question,

did we investigate anybody else fitting that

description? 8

> Q. No. Well --

MR. CALLISTE: Withdrawn.

The question is: Were you or Q. 11

12 Detective Talt familiar with anyone -- when

the call came in describing an individual 13

named Carlos dealing with narcotics out of a 14

certain area, did you or Detective Talt know 15

who this Carlos person was, or did you have 16

any prior information regarding anyone named 17

Carlos dealing with narcotics in that area? 18

Α. No. 19

Q. At the time that you first left 20

the precinct on April 12, 2008 with Detective 21

Talt, was it your intention to pull over and 22

stop the vehicle if you did see it? 23

Our intention was to investigate 24 drug activity in that area. If we had seen 25

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GONZALEZ -V- COUNTY OF SUFFOLK

49 51 1 Newton 1 Newton that car, it could have changed. We weren't 2 2 blue Cadillac? 3 necessarily going to pull it over. 3 Α. No, I did not. Well, what were your intentions 4 Q. How about Detective Judge? with respect to this vehicle? 5 A. Officer Judge. No, I did not. 6 A. Follow it, see what his activity 6 Q. So, at Pine Street, what happened 7 was. 7 when you arrived? 8 Q. I'm not asking you what you could 8 Α. He made a right onto Pine Street. have done. I'm asking you: What were your 9 I kept going. And Detective Talt followed 10 specific intentions? 10 him. 11 Α. We didn't have any specific 11 Q. Where did you proceed to? 12 intentions. 12 A. I proceeded to West 1st Street 13 Q. But you did go out looking for 13 and parked my car. this vehicle? 14 14 How far is West 1st Street from Q. 15 Α. Not that particular vehicle, no. Pine Street? 15 16 Q. At the time that you went out A. 16 Less than a quarter of a mile. with Detective Talt on April 12, 2008, you 17 17 Q. What, if anything, did Detective 18 were not looking for the vehicle that was 18 Talt do? mentioned in this complaint, is that your 19 19 Α. He followed the car. 20 testimony? Q. 20 Do you know specifically where 21 A. I'm saying we didn't go out 21 Detective Talt followed the car to? 22 specifically for that vehicle. But if we did 22 A. Pine Street. 23 see that vehicle, we would have investigated Q. 23 Was there any particular location 24 it. on Pine Street that Detective Talt followed 24 Q. If you did see that vehicle that 25 the car to? 50 52 1 Newton 1 Newton 2 was described in the complaint, was it your 2 He followed the car to an area on 3 intention, or did you have any discussions Pine Street where the car made a stop. 3 with Detective Talt regarding what you would 4 Q. At the time that you broke off have done if that vehicle came into your view? 5 from following the vehicle and Detective Talt 6 A. No, I did not. continued with his surveillance, were you in 7 Q. So, at the point that you 7 contact with Detective Talt? 8 followed the vehicle from Pine Street -- to 8 Α. Yes. Pine Street, did the vehicle make any stops? 9 9 Q. How were you in contact with 10 Α. Stopped at a red light at Higbie Detective Talt at that time? 10 11 and the service road. 11 Α. Police radio. 12 Q. Besides stopping at lights, did 12 Q. Do you know if these police radio 13 the vehicle stop to do anything that you 13 runs are recorded? believe was suspect, or did you see the 14 14 Α. I believe they are, yes. 15 vehicle make any stops other than red lights? 15 Q. Have you ever heard any 16 Α. I did not personally see him make recordings of any radio runs that night? 16 any other stops. 17 A. 17 Yes. 18 Have you ever had any discussions with --18 Q. When did you first hear those 19 did you have any discussions with any of the 19 radio runs? 20 other -- with Detective Scimone -- Sgt. 20 A. During the prep for this Scimone prior to your going out on April 12, 21 deposition. 2008? 22 Q. What, if any, items all together, 23 A. No, I did not. 23 in total did you review in preparation for 24 Q. Did you ever have any cellphone 24 this deposition today?

conversations with Sgt. Scimone regarding the

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Any items?

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Newton

Q. Right. 2

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A. Well, we reviewed the tapes. I 3 reviewed my paperwork. 4

Q. The tapes, how many tapes did you review?

They are actually CDs. I believe Α. there was just one.

What, if anything, did Detective Q. Talt say to you while he was following this blue vehicle on Pine Street?

Α. I don't recall Detective Talt saying anything.

Q. You indicated at some point the vehicle had stopped and something occurred at that stop, correct?

> A. Yes.

Q. How do you know that that 18

happened? 19

> Again, I found out later on that Α. that is what happened.

At the time that you -- at the Q. time that you broke off from Detective Talt, was Detective Talt describing to you what he was observing?

Newton

these individuals at night, correct?

Α. Correct.

Q. Approximately how far in terms of 4 distance were you officers trailing behind the

blue Cadillac in terms of car lengths? 6

I believe I was directly behind 7 him. That is why I got off of him and 8 Detective Talt followed him onto Pine Street. 9

In terms of car lengths, how far 10 were you following him? 11

I was directly behind him. In 12 Α. car lengths, I don't know. Two car lengths, a 13 car length. I don't know. 14

Do you know if Detective Talt 15 Q. maintained the same distance from the vehicle 16 at the time that you broke off from It? 17

> Α. I don't know.

Q. You indicated that at the time 19 you were communicating with Detective Talt via 20 radio, correct? 21

> Α. Correct.

22 Q. Detective Talt at the time did 23 24 not describe to you what he was seeing when vou broke off from the vehicle? 25

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Newton

Α. No.

Q. Did you know at the time that you broke off from Detective Talt exactly what

Detective Talt was observing? 5

Α. No.

Q. You said you came to learn later on that there was some sort of stop, correct?

> Α. Correct.

Q. To your knowledge, what happened, or what, if anything, did Detective Talt observe during that stop?

Α. He observed what was an apparent hand-to-hand drug transaction between the operator of the dark Cadillac and another vehicle.

Q. Did Detective Talt say it was a 17 hand-to-hand drug transaction? 18

> A. Yes.

19 20 Q. As you sit here, within your knowledge, do you know how Detective Talt was 21 able to determine that there were actually 22 drugs handed --23

> Α. He observed it. He saw it. At this time you were following Q.

Newton I don't recall if he said it over Α. the radio or not at that time. I don't

recall.

you were in the car after you broke off from the surveillance, did you know at that time that Detective Talt claimed to have seen a 9 hand-to-hand drug sale, while you were in your 10 car?

On the day, April 12, 2008, while

Α. At what point in time? I'm 11 12 sorry.

Q. When you broke off from the 13 surveillance, Detective Talt continued with 14 the surveillance on Pine Street, correct? 15

> A. Correct.

Q. At the time that you broke off 17 and Detective Talt continued with the 18 surveillance, was Detective Talt describing to 19 you what he was observing? 20

Α.

21 Q. Sir, at this time could you 22 remember what particular point you were told 23 by Detective Talt or you learned that there 24 was some sort of hand-to-hand transaction on 25

57 59 1 Newton 1 Newton 2 Pine Street? 2 A. Yes, it did matter to me. Yes. 3 Α. If I can explain. My opinion was 3 Q. Was there any particular that he went down that side street to do a 4 reason -- did you have equipment in your hand-to-hand deal. I did not observe it. 5 vehicles to run plates if you need to? 6 But when they passed me when I 6 Α. The equipment would be, I would 7 was parked, I was facing out. They passed me. 7 have to do it over primary on our radio. The Cadillac was first. Detective Talt came 8 8 Was there any particular reason 9 by. He gave me an acknowledgement that 9 why you did not run that plate at that time? 10 something had happened. So I meant that to be 10 Α. 11 that a hand-to-hand had just taken place. 11 Q. Are those vehicles equipped with 12 Q. How did he give you that 12 cameras? 13 acknowledgment? 13 Α. 14 A. He gave me a thumbs up. 14 Q. Were either of you detectives 15 Q. Did you know what that thumbs up 15 taking pictures or doing any other visual 16 meant? 16 recordina? 17 A. I took that to mean that he had 17 A. No. 18 just done a hand-to-hand. 18 Q. How long after you left the 19 Was that ever personally precinct on April 12, 2008 initially --19 20 communicated to you over the radio? 20 MR. CALLISTE: Withdrawn. 21 A. No. 21 Q. Do you recall what time you first Q. 22 Do you know if there was any 22 left the precinct on April 12, 2008? 23 reason why that wasn't -- if you know why that 23 Α. No, I don't. 24 wasn't communicated to you over the radio? 24 Q. Do you recall how long you were Α. No. in the precinct approximately before you went 58 60 1 Newton 1 Newton 2 Q. Was that something that you would 2 out with Detective Talt? normally communicate over the radio? 3 3 A. No. 4 Α. Not necessarily. 4 Q. Do you recall how long after you Q. 5 After the blue Cadillac passed 5 initially went out with Detective Talt you you by with the detective following it, what, 6 6 came to see this blue Cadillac? 7 if anything, did you do at that point? 7 Α. No. 8 A. I proceeded to follow him. 8 Q. Do you recall approximately how 9 Q. Where did you follow him to? 9 long? 10 A. I -- we went onto the service 10 Α. No. 11 road, the south service road of the Sunrise 11 Q. Do you recall how long you were 12 Highway. I followed him. on the road before you came to see this blue 12 13 He then went onto the Robert 13 Cadillac? 14 Moses Causeway going northbound. He then made 14 A. No. 15 an exit onto the Bay Shore Road slash Southern 15 Q. Do you recall how long you were 16 State Parkway eastbound exit. 16 on the road that day in total at all? 17 At any time while you were Q. 17 Α. No. surveilling this vehicle and or following the 18 18 Q. Do you know how long you observed vehicle, did you ever run the plates to find 19 that Cadillac for? 20 out who owned that vehicle? 20 Α. For what? Α. No. 21 Q. Do you know how long you observed Q. Did you care at that point? 22 that Cadillac, length of time? 23 Α. 23 Α. Length of time, from the initial 24 Q. Did it matter to you one way or 24 time I saw him to the traffic stop?

the other?

25

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Q.

GONZALEZ -V- COUNTY OF SUFFOLK

DET. JOHN NEWTON

61 63 Newton Newton 1 1 A. I would say it was probably five 2 yourself? 2 to ten minutes. 3 Α. I assisted in the traffic stop. 3 4 Q. Did there come a time that that 4 But the traffic stop was conducted by the COP 5 Unit. vehicle was stopped? 5 Α. Yes. 6 Q. How was the COPE Unit notified --6 Q. or notified by you that you would be Where was that vehicle stopped? 7 7 A. It was stopped in the shoulder conducting a stop? 8 portion of Bay Shore Road entering onto 9 Α. We were on the Detective Band. 9 Southern State Parkway. The sergeant asked me if they should conduct a 10 10 Q. 11 traffic stop. And I said yes. How did it come about that the 11 determination was made that the car would be 12 Q. When did you first speak to the 12 13 stopped? sergeant from COPE? 13 Α. I made the determination to stop 14 It was around that time, maybe a 14 the car because it had conducted a couple of minute before that. 15 15 traffic infractions. Q. Were you in the vehicle at that 16 16 17 Q. What traffic infractions did you 17 time? Α. 18 see the car commit? 18 Yes. A. Q. Prior to speaking to the He failed to stop at the service 19 19 road at West 1st. I'm sorry. The service sergeant -- for the record, what sergeant are 20 20 21 road at West 1st. There was a stop sign. He 21 you referring to? 22 A. 22 didn't make a complete stop. And improper Sergeant Scimone. Q. lane change on the service road. And then an 23 Prior to speaking to Sqt. Scimone -- prior 23 to speaking to Sgt. Scimone while you were 24 improper lane change on the Robert Moses 24 Causeway. 25 surveilling the blue Cadillac, had you had any 25 62 Newton 1 Newton 1 Q. Did you typically conduct traffic conversations with Sqt. Scimone or any other 2 officers from COPE prior to that? 3 stops? 3 Α. Yes. 4 Α. No, I did not. 4 Q. Who contacted COPE to make the 5 Q. Was that part of your duties, to 5 conduct traffic stops? traffic stop? 6 6 7 Α. 7 Α. **Detective Talt.** Yes. Q. 8 Q. Where were you at the time that 8 For vehicle violations, moving violations? Detective Talt made this request to COPE? 9 9 Α. Yes. 10 Α. I believe I was in my vehicle. 10 Q. At the time that you stopped the 11 Did you know at that time that 11 vehicle, did you stop the vehicle at all as a Detective Talt had called COPE to make the 12 12 13 result of what Detective Talt claims that he 13 stop? 14 Α. 14 may have seen occur on Pine Street? Yes. Q. Is there any particular reason Α. You would have to ask that again. 15 15 Q. why you used COPE to make the stop and you Certainly. The hand-to-hand drug 16 16 transaction that Detective Talt may have seen 17 didn't make the stop yourself? 17 on Pine Street, was that -- did that serve as Because we usually try to get a 18 18 uniformed car to make a traffic stop. It is 19 any basis to stop the vehicle at all? 19 Α. easier that way. It is safer. 20 Yes, it did. 20 Q. So, would it be accurate to say 21 Q. How many police unit cars were 21 that that alleged transaction was also a 22 involved in that traffic stop initially? 22 A. 23 reason for the stop? 23 Just the COPE Unit and my

Α.

Q.

It was part of the reason, yes.

Did you perform the traffic stop

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vehicle.

Q.

Was that one police car?

GONZALEZ -V- COUNTY OF SUFFOLK DET. JOHN NEWTO Because we don't like to give up 3 Q. That was a marked police car? the cars that we use. Α. Yes, sir. 4 Q. You gave up the car that you Q. Were you anywhere in the area 5 used, correct? 6 when the stop was conducted itself? 6 A. No, I did not. 7 Α. Yes. 7 Q. You participated in the traffic Q. 8 Did you see the stop occur? 8 stop? 9 Α. Yes. 9 Yes. But I was far enough behind Α. 10 Q. Where were you at the time that 10 and to the right that he couldn't see my car. 11 you saw the stop occur? 11 Q. As far as you knew? 12 I was behind them. I would say Α. Α. 12 Correct. fifty yards maybe behind them to their right. 13 13 Q. Did you know one way or the other 14 Do you know where Detective if this person did actually see your car or 14 15 Talt's vehicle was at that time? 15 not? 16 Α. He kept going on the Southern 16 Α. No, I do not know. 17 State. So he proceeded past us and stopped in Q. What happened after the initial 17 front where he couldn't be seen. But I don't 18 18 stop? 19 know exactly where that was, 19 Α. I waited a few minutes. And then Do you know for a fact that 20 20 I walked up to the police car. 21 Detective Talt stopped in an area where he 21 Q. Approximately how long did you 22 couldn't be seen? 22 wait? 23 Α. Yes. 23 Α. A couple of minutes. Q. 24 Do you know if that was his 24 Q. At the time that you were intention to stop in an area where he couldn't 25 waiting, what were you doing? 66 68 1 Newton 1 Newton 2 be seen? 2 A. Just observing. 3 Α. Yes. 3 Q. What did you observe? 4 Q. Why was Detective Talt stopping 4 Α. I observed the COPE car do a 5 in any area where he couldn't be seen? 5 traffic stop. 6 Α. So the person that was operating Did you observe anything in 6 Q. 7

that car would not see him.

Was there any reason why 8 9

Detective Talt didn't want the person

operating the car to see him? 10

> Α. A couple of reasons. One, he didn't want the person to see the car that we were using. Two, he didn't want that traffic stop to seem like it was more than just a traffic stop.

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Q. Sir, did you have the same

17 concerns?

> Α. Yes.

19 Q. You were directly involved in the

20 stop, correct?

> Yes, after the stop was Α. initiated. Yes.

Q. Why was it a concern that the suspect not see the car that Detective Talt

25 was driving? 7 particular occur while that traffic stop --

when that traffic stop was initiated while you

were sitting in your car? 9

> Α. No.

11 Q. Did the individual driving the

12 car get out of the car while you were sitting

13 in yours?

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A. 14 No.

15 Q. Were you in communication with any of the officers from COPE at the time that 16

the stop had taken place? 17

> Α. No.

Q. Were you listening in on what was

20 going on at the stop?

> Α. Not really, no.

Q. Did you know one way or the other

what was being discussed by the officers of 23

24 COPE, sergeant -- was it the sergeant that

25 actually made the stop?

GONZALEZ -V- COUNTY OF SUFFOLK 69 Newton Newton 1 1 2 Q. Were you having any A. They were together. 2 Q. When you say they -communications or were you communicating with 3 Α. Officer Judge was driving. Sgt. Detective Talt at the time that you were 4 stopped behind the COPE car? Scimone was the passenger. 5 Α. 6 No. 6 Q. With respect to that initial Q. 7 At that time did you have any stop, what actions, if any, were you able to 7 idea where Detective Talt was or where his observe Officer -- Sgt. Scimone make with 8 vehicle was situated? respect to the vehicle? 9 9 Α. I observed Officer Judge and Sgt. 10 No. 10 Α. Q. 11 Do you know if Detective Talt was Scimone approach the car. 11 12 on the Southern State Parkway or somewhere Q. How did they approach the car? 12 A. Officer Judge approached on the 13 nearby? 13 I believe he was on the Southern 14 Α. 14 driver's side. Sgt. Scimone was on the State Parkway. passenger side. 15 15 Q. How did you come to that belief? 16 Q. Were you able to determine at 16 that time who was communicating with the 17 Α. Because that is where I believe 17 driver? 18 he was. 18 He would be close enough that if 19 I believe it was Officer Judge. 19 Α. he had to, he could get to our car. So I Q. Were you able to see what, if 20 20 21 believed he was on the Southern State Parkway. anything, Sqt. Scimone was doing? 21 Did Detective Talt communicate to Α. No. He was just on the passenger 22 22 you that he was on the Southern State Parkway 23 23 side. at that time? Q. Did these individuals have their 24 24 25 Α. No. guns drawn? 25 70 Newton 1 Newton 1 Q. So at the time you got out of Α. Not that I could see, no. 2 2 your car and proceeded to the blue Cadillac Q. Besides communicating with the 3 3 where the stop occurred, what, if anything, driver, did you see Sgt. Scimone or Officer 4 did you observe at the time that you were 5 Judge do anything with respect to the driver? walking from your car to the blue Cadillac? A. 6 Q. 7 A. I observed Officer Judge in the Did you see them take his 7 identification? police car and Sqt. Scimone on the driver's 8 8 side of the vehicle, of the Cadillac. 9 A. I couldn't see that, no. 9 Q. Q. 10 10 Do you know if they asked him for his identification? Judge was in the police car? 11 11 Yes, he was. Α. 12 Α. 12 Yes. Q. Q. 13 How do you know that? 13 14 passenger's side? 14 A. Because when I approached them --15 Α. when I approached Officer Judge, he had his 15 Q. Did you have any discussions with 16 identification. 16

You say at that time Officer

And Sqt. Scimone was still on the

No. He was on the driver's side.

Officer Judge? 17

Α.

Q. What, if any, discussions did you

have with Officer Judge? 20

21 A. I asked him who was operating the 22 vehicle and if he owned the vehicle.

23 Q. What, if anything, did Officer

24 Judge tell you?

Officer Judge told me that the

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Q.

identification?

Α.

Q.

Α.

Q.

Α.

Officer Judge had Mr. Lazo's

you say you waited a few minutes, do you know

approximately how long that few minutes was?

A couple of minutes.

Less than five minutes?

I don't know for sure.

At the time that you approached,

Yes, he did.

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73 Newton operator of the vehicle was Kenny Lazo. And

I'm not sure if he knew who the owner of the vehicle was at that time. And that he was going to check his license to make sure it was valid.

Q. Did you have any other discussions with Officer Judge?

Α. No.

Q. Did you have any discussions -do you know if COPE had any information regarding the alleged hand-to-hand incident that occurred before?

Α. No.

Q. Did you have any conversations with Officer Judge regarding the fact that this person may possibly have been involved in a drug transaction?

Α. I don't recall if I did or didn't.

Q. At the time that you were first speaking to Officer Judge about who was driving the vehicle, did you make mention of any other crimes that you witnessed or that you may have seen?

74

Newton

Α. No.

Q. Did you make mention of the fact that this person was a witness in the investigation that was being conducted by yourself?

> Α. A witness?

> > No.

Q. I am sorry. That he was a suspect.

9 10 Α.

11 Q. Do you know one way or the other

if Officer Judge knew that this person was a

suspect in an alleged narcotics transaction? 13 14

Again, I don't recall if I said to him that he had just done a hand-to-hand, so I can't answer that.

16 17 Did you have any other discussions with Officer Judge while he was in 18

his police car? 19

Α.

Q. That police car, do you know if the police car that was being operated by COPE was equipped with a computer?

23 Α. 24 Yes, it was.

25 Q. Do you know if Officer Judge was Newton

running Mr. Lazo's information?

Α. Yes, he was.

Q. 4 Was he running that via radio, or

computer, or some other method?

Α. I don't know.

Q. 7 Did you hear Officer Judge having 8 any communications with the dispatcher or

anyone from the police precinct?

A. No.

Q. 11 What, if anything -- what did you do next after having this conversation with

13 Officer Judge?

> Α. I walked up to the vehicle.

15 Q. The vehicle meaning the blue

Cadillac? 16

> Α. Yes.

Q. 18 What, if anything, did you

observe at the time that you walked up to the 19 blue Cadillac? 20

21 Α. I observed Sgt. Scimone at the driver's side window and the operator of the 22 vehicle sitting in the car. 23

24 Q. What, if anything, was Sqt.

Scimone doing at that time?

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Newton

A. 2 He was just standing there.

Q. 3 Was he having any discussions 4 with the driver?

5 Α. I don't recall.

Q. 6 Do you recall if Sgt. Scimone had

a flashlight out or anything else like that? 8

Α.

Q. 9 Do you recall if Sqt. Scimone was

10 standing at the -- directly at the driver's 11

door or behind it?

Α. I don't recall.

Q. 13 Did you have any conversation

14 with Sgt. Scimone at that time?

> Α. Yes, I did.

Q. 16 What, if any, conversation did

17 you have with Sgt. Scimone?

I quickly explained to Sgt.

Scimone that we believe the operator of the 19 vehicle just did a hand-to-hand on the street 20 21 and that we were going to see if we can find

What, if anything, did Officer --

out who he was and what he was doing. 22 23

24 Sgt. Scimone say in response to that?

He didn't.

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DET. JOHN NEWTON

79

GONZALEZ -V- COUNTY OF SUFFOLK 77 Newton Newton 1 1 2 Α. Q. Did you have any discussions with No. 2 Sgt. Scimone regarding possibly searching the Q. After Mr. Lazo exited the 3 3 vehicle? vehicle, what happened next? 4 4 Α. No. 5 We walked around behind the 5 Q. vehicle to the rear of the passenger side of 6 Did you have any intent at that 6 point to have the vehicle searched? 7 the vehicle. 7 Α. 8 Q. At that time it was yourself, 8 Q. Sir, though it is your testimony Sqt. Scimone, and Mr. Lazo? 9 9 that, to your knowledge Detective Talt Α. 10 10 Correct. Q. witnessed a hand-to-hand sale, you had no Where was Officer Judge at that 11 11 intention of doing anything with respect to time that Mr. Lazo exited the vehicle? 12 12 Α. that sale at that time, is that your testimony 13 He was still in the police 13 right now? 14 vehicle. 14 Α. That's correct. 15 Q. Do you know at that time where 15 Q. Detective Talt may have been? Just to be clear, the only reason 16 16 that you pulled over this vehicle was because Α. I believe he was still in the 17 17 of the vehicle stop? same spot he was originally at. 18 18 As I stated before, it was also Q. 19 Α. 19 At that time did you have any to identify the operator of the vehicle who 20 idea what that spot was? 20 Α. just conducted a hand-to-hand transaction. 21 21 Sir, as you sit here, do you know 22 Q. 22 if Sgt. Talt knew --23 23 Α. 24 correct? Detective Talt. 24 Q. As you sit here today, do you 25 Α. 25 78 Newton Newton 1 1 know if Detective Talt actually saw a 2 2 hand-to-hand transaction? 3 3 Α. 4 As I sit here today, yes, I do. 4 5 Q. And you had no intention of 5 assist, he would help us. 6 arresting the operator of that vehicle at the 6 time that you pulled him over for the 7 7 hand-to-hand transaction that you saw? 8 8 9 Α. That is correct. 9 using cellphones to communicate? Q. 10 What happened next after you had 10 Α. No, I did not. 11 the discussion with Sgt. Scimone? 11 Q. During the discussion with Sgt. 12 12 Scimone, he advised me that the vehicle had a Α. No, I do not. 13 13 14 push button start, which I had never seen 14 Q. before. I didn't even know how that worked. 15 15 Our concern was that he could take off at any cellphones? 16 16 point in time. So we asked the operator, 17 Α. No, I do not. 17 Kenny Lazo, if he would exit the vehicle. And Q. 18 18 he voluntarily did. 19 19 Did you have any discussions with 20

Exactly where that was, no. So, at that time you had no knowledge where your partner was; is that Again, I believed he was in front 80 of us, a spot where the operator of the vehicle could not see what was going on. But he was close enough that if we needed an Sir, at any point that evening while you were surveilling the vehicle and/or after the vehicle had been stopped, were you Do you know if Sgt. -- if Detective Talt was using a cellphone? Do you know if any of the police officers with the COPE Unit were using Sir, after Mr. Lazo had exited the vehicle and walked to the back passenger 20 side of the vehicle, what happened next? He went to the back passenger 21 side of the vehicle. I started to ask him 22 23 some basic questions. Such as -- what questions did you 24 Q. 25 ask him? 20 of 47 sheets

A.

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Kenny Lazo before that time?

While Sgt. Scimone was standing

next to the vehicle, did you hear Mr. Lazo say

No.

GONZALEZ -V- COUNTY OF SUFFOLK 81 1 Newton 1

2 Α. Such as name, date of birth, 3 address.

Q. Who began asking him those questions?

A. I did.

Q. Why did you begin asking him those questions?

9 Α. Again, just to find out who he 10 was and where he lived.

Q. At that time you had Mr. Kenny's identification before you, correct?

> Α. I didn't.

Q. At that time it was discussed -at least it was advised -- it was told to you by Officer Judge who the driver was, correct?

Α. Correct.

Q. 18 You knew his identity at the

time? 19

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Α. Yes.

21 Q. Did you ask him any other 22 questions besides his name and date of birth?

Α. At that particular time I was just asking basic questions.

> Q. What questions did you ask him?

> > 82

Newton A. His name, his date of birth, and address.

Q. What other questions did you ask him besides that?

Α. Besides that. After asking him those questions, I asked him -- I got more particular questions, like where he was coming from, what he was doing in the area, whose car it was. Things along that line.

11 Q. Did Mr. Kenny -- Mr. Lazo respond 12 to your questions?

Α. 13 Yes. But he was becoming 14 nervous.

Q. When you asked Mr. Lazo where he was coming from, how did he respond?

Α. He said from up the road.

Q. Are those the specific words he

19 used?

20 Α. No.

> Q. Do you recall what specific words he used?

23 Α. No.

Q. 24 Were you taking notes at this 25 time?

Newton

2 Α. No, I was not. 3 Q. Do you recall what Mr. Lazo said

to you with respect -- specifically with

respect to where he was coming from?

Α. No.

Q. 7 When you asked Mr. Lazo what he

8 was doing, do you recall how he responded to

9 that?

6

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10 Α. No.

Q. What did Mr. Lazo tell you while 11

he was pulled over -- while he was in the back

of the police vehicle -- while he was in the 13

14 back of his vehicle? What did he tell you?

Α. What did he tell me?

Q. 16 Yes.

17 Α. He told me that -- I don't

18 remember exactly. But he did not tell me he

was coming from an area that he was just at. 19

It wasn't the same as where he was. 20

21 Q. At this point you allege that

22 Mr. Kenny was observed in a hand-to-hand,

23 correct?

24 Α. Mr. Lazo. Yes.

Q. 25 Sorry. That Mr. Lazo was

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DET. JOHN NEWTO

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Newton

2 involved in a hand-to-hand transaction,

3 correct?

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Α. Yes.

5 Q. You were interviewing him to find out more information about him, correct?

7 Α. I was interviewing him to develop 8 any information we can about him, yes.

9 At this point, as you testified today about the conversations that you had 11 with him during that initial stop, you cannot

12 remember anything that he said to you in that 13

regard?

14 A. I can remember, again, that where he said he was was not where he was at. 15

16 Did you ever write down anywhere Q. 17 where Mr. Lazo claimed he was?

Α. 18 No, I did not.

> Q. Did you ever write down anywhere,

20 in any documents, or did you ever record

anywhere anything that Mr. Lazo told you while 21

22 he was standing behind his car?

23 Α. No, I did not. Except his name and date of birth. 24

25 Q. When you asked Mr. Lazo whose car

21 of 47 sheets

DET. JOHN NEWTON

85 87 1 Newton Newton Q. 2 Did they train in the academy to he was driving, how did Mr. Lazo respond to 2 3 not record that information anywhere? that? 3 They didn't train us either way. Α. He stated it wasn't his car. 4 Α. 4 Q. 5 Q. They didn't train you? Did Mr. Lazo explain whose car it 5 Α. 6 This was an ongoing 6 was? investigation. He was lying to me. I didn't Α. I don't recall if he did or 7 8 need to write that down. I knew he was lying 8 didn't. 9 9 Q. Did it matter to you whose car he to me. Q. Sir, at the time that you were 10 was driving? 10 discussing -- having these discussions with Α. 11 11 Sure. Q. 12 Mr. Kenny at the rear of his vehicle --12 Did you believe that information Α. to be important? 13 Mr. Lazo. 13 Q. Sorry. I have another client 14 Α. 14 Q. 15 named Mr. Kenny. I did a deposition recently. 15 Did you believe the information 16 MR. DUNNE: Been in the same spot regarding where he was coming from to be 16 important? 17 many times. I understand. 17 18 Q. Describe to us what he looked 18 Α. Well, it was important to see if like at that time. he was being honest. But we knew where he was 19 19 20 Α. He was an Hispanic male, kind of coming from. 20 Q. 21 heavyset. More than heavyset. Heavy. About Did you believe that the fact 21 five eight, five nine. I don't remember 22 that Mr. Lazo had told you something different 22 exactly what clothes he was wearing. 23 regarding where he had been and where he was 23 24 Q. Was Mr. Kenny -- Lazo yelling at 24 coming from was relevant to your 25 that time? investigation? 25 86 88 Newton 1 Newton 1 A. A. 2 No. 2 Yes. 3 Q. Did Mr. Lazo appear agitated? 3 Q. You didn't record that 4 A. No. information down anywhere, is that accurate? 4 5 Α. That he was lying? I know he was 5 Q. Now, you indicated that Mr. Lazo 6 appeared nervous, correct? lying. 6 7 Α. 7 Q. Correct. Did you record that information 8 Q. At what point did Mr. Lazo become 8 down anywhere? nervous, in your observation? 9 Α. That he was lying? 9 When I started to ask him those Q. 10 Α. 10 Yes. Α. specific questions. 11 11 Did Mr. Lazo appear nervous 12 Q. Is there any reason why you 12 initially when he was told to exit the didn't put that information down if you 13 13 vehicle? thought it was relevant? 14 14 Α. I put it up here (indicating), in 15 No. Α. 15 Q. my head, that he was lying. 16 Did he appear nervous at the 16 Q. 17 point when he was sitting in the vehicle? 17 You were trained in the academy? A. 18 Α. 18 Yes. Q. Q. You were trained in police 19 So at the point that Mr. Lazo 19 became nervous, in your opinion, what was his procedures, correct? 20 20 21 demeanor at that time? How was he acting Α. 21 Yes. Q. Did they train you in the academy 22 nervous? 22

Α.

to keep information that you believed material

and relevant to a case in your head?

Yes.

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Α.

He was fidgety. He was moving

with his hands. His questions weren't --

initially when I would ask him a question, he

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Newton 2 would say yes, sir or no, sir, that type of 3 thing.

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He was no longer doing that. He became, why do I need to know those answers? Why are you asking me these questions?

So, what happened once you -- at the time that you were asking Mr. Lazo these questions regarding where he was, where he was coming from, et cetera, what, if anything, was Sgt. Scimone doing?

A. Sgt. Scimone was -- had borrowed my flashlight and was looking around the area.

When you say Sgt. Scimone was looking around the area, in what area was Sqt. Scimone looking?

Α. Around the vehicle, on the grass, seeing if any contraband was dropped.

At that time did you see Sgt. Scimone point the flashlight inside the vehicle?

> Α. I believe he did, yes.

Q. After Sgt. Scimone surveyed the area with the flashlight as you just described, what, if anything, did he do?

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Newton

Α. I don't know.

Q. While Sgt. Scimone was surveying the area with the flashlight, what were you doing?

> Α. I was talking to Kenny Lazo.

Q. Then what happened?

A. Originally Mr. Lazo and myself, we were facing each other. At some point in time Mr. Lazo turned. So now he is facing away from me towards the Southern State Parkway.

Q. At the time that you were asking Mr. Lazo where he had come from, where he had been, did you indicate to Mr. Lazo that you had allegedly saw him doing anything unlawful

17 or illegal?

Α. No, I did not.

Q. With respect to Mr. Lazo's physical condition at that time, can you describe that? You described he was heavyset. Did he have any bruises on him?

Α. I didn't see any.

Q. Was he bleeding at that time?

Α. No, he was not. Newton

2 Q. Did he appear to be limping at that time when he walked from the passenger --3 from the driver's side to the back?

Α. No.

Q. Did he appear to be in pain?

Α.

Q. Did he appear at that point to

need medical treatment? 9

> Α. No, he did not.

Q. What happened next?

Α. As he is facing the opposite direction, I'm now -- his back is towards me. He throws his elbow back towards me, and hits me in my shoulder, and knocks me back.

Q. At that time did you do anything to Mr. Kenny -- Mr. Lazo prior to him throwing that elbow as you allege?

19 Α. No.

> Q. Did you do anything physically? Did you make any physical movements?

Α.

Q. Did the conversation become hostile before that point?

He was becoming a little more

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Newton

2 agitated. Becoming agitated, I should say. 3

Did you mention to Mr. Kenny --

4 With respect to Mr. Lazo, did you advise

Mr. Lazo as to whether you saw him involved in 5

6 any sort of suspect activity at any point that

7 night?

Α.

9 Q. Did you advise Mr. Lazo that you 10

were following him?

Α. No.

12 Q. Did you advise Mr. Lazo that a

13 complaint had come in involving a possible 14 narcotic sales out of a particular vehicle

15 that matched the description of the one that

16 he was driving?

17 A.

18 Q. Did you describe anything

19 involving narcotics, or any sort of crime, or 20 anything at all to Mr. Kenny prior to him

21 throwing the elbow?

> Α. No.

23 Q. Is it your testimony that

Mr. Lazo just threw his elbow just like that? 24

25 Yes.

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۱,			1		Newton	
1	Q.	Was that in response to any	2	Q.	Sir, prior to Mr. Lazo throwing	
2		·	3		you just described, was there any	
3	particular question that you asked him? A. Again, I was asking him questions on where		4	search conducted of that vehicle?		
4		<u> </u>	5	A.	No.	
5	•	at he was doing, where he was coming	6	Q.	Were any flashlights or anything,	
6	from.	1Mb at acception did you nate bim	7		riedge, flashed inside the vehicle	
7	Q.	What question did you ask him	8	•	- -	
8	immediately prior to him throwing that elbow		9	doing a preliminary search? A. I believe Sgt. Scimone did a		
9	at you?		10	cursory search of the vehicle with the		
10	Α.	I don't recall.	11	flashlight.	ich of the Actuale Mith the	
11	Q.	When he threw the elbow at you as	12	Q.	At the time that Sgt. Scimone did	
12	you describe	you described, what happened next?				
13		He knocked me back, and then he	13 14	a cursory search of the vehicle with the		
14	started to re		15	flashlight, do you know if Sgt. Scimone saw anything inside the vehicle?		
15	Q.	How far back did he knock you?	16	A.		
16	Α.	Just a slight bit. Just enough	17	Q.	No, I do not. Did Sgt. Scimone raise any	
17	to get away		18		you that there was something that	
18	Q.	At the time that he knocked you	19		erned about in the vehicle?	
19	· _	was Sgt. Scimone?	20	A.	No.	
20	Α.	Sgt. Scimone, I don't know	21	Q.	Once Mr. Lazo's elbow connected	
21	-	ere he was. But he was not in	22		Office Mr. Eazo's elbow conflected	
22			23	with you	By the way it did connect	
23			24	correct?	By the way, it did connect,	
24	Q,	At the time that you were knocked	25	A.	Correct.	
25	backwards, w	rould it be accurate to say that	23		correct.	
						96 .
		94 Noveton	4		Newton	96
1	, ,	Newton	1	0	Newton	96
2	•	Newton only officer in the immediate	2	Q.	Where did it hit you?	96
3	vicinity of Mr	Newton only officer in the immediate Lazo?	2	A.		96
3 4	vicinity of Mr	Newton only officer in the immediate Lazo? No.	2 3 4	A. shoulder.	Where did it hit you? On my shoulder, my right	96
2 3 4 5	vicinity of Mr A. Q.	Newton only officer in the immediate Lazo? No. Where was Officer where was	2 3 4 5	A. shoulder. Q.	Where did it hit you? On my shoulder, my right Was that the upper portion of	96
2 3 4 5 6	vicinity of Mr A. Q. Officer Judge	Newton only officer in the immediate Lazo? No. Where was Officer where was at that time?	2 3 4 5 6	A. shoulder. Q. your shoulde	Where did it hit you? On my shoulder, my right Was that the upper portion of er, the lower portion of your	96
2 3 4 5 6 7	vicinity of Mr A. Q. Officer Judge A.	Newton only officer in the immediate Lazo? No. Where was Officer where was at that time? He was back with me and Mr. Lazo.	2 3 4 5 6 7	A. shoulder. Q. your shoulder? W	Where did it hit you? On my shoulder, my right Was that the upper portion of er, the lower portion of your there exactly?	
2 3 4 5 6 7 8	vicinity of Mr A. Q. Officer Judge A. Q.	Newton only officer in the immediate Lazo? No. Where was Officer where was at that time? He was back with me and Mr. Lazo. At what point during the	2 3 4 5 6 7 8	A. shoulder. Q. your shoulder? W. A.	Where did it hit you? On my shoulder, my right Was that the upper portion of er, the lower portion of your /here exactly? Well, I guess between my shou	
2 3 4 5 6 7 8 9	vicinity of Mr A. Q. Officer Judge A. Q. conversation	Newton only officer in the immediate Lazo? No. Where was Officer where was at that time? He was back with me and Mr. Lazo. At what point during the that you were having with	2 3 4 5 6 7 8 9	A. shoulder. Q. your shoulder? W. A. and my arm	Where did it hit you? On my shoulder, my right Was that the upper portion of er, the lower portion of your /here exactly? Well, I guess between my shoun, my right arm.	
2 3 4 5 6 7 8 9	vicinity of Mr A. Q. Officer Judge A. Q. conversation Mr. Lazo did	Newton only officer in the immediate Lazo? No. Where was Officer where was at that time? He was back with me and Mr. Lazo. At what point during the that you were having with Officer Judge come back?	2 3 4 5 6 7 8 9	A. shoulder. Q. your shoulder? W. A. and my arm Q.	Where did it hit you? On my shoulder, my right Was that the upper portion of er, the lower portion of your where exactly? Well, I guess between my shoun, my right arm. Sir, do you know for sure if it	
2 3 4 5 6 7 8 9 10	vicinity of Mr A. Q. Officer Judge A. Q. conversation Mr. Lazo did	Newton only officer in the immediate Lazo? No. Where was Officer where was at that time? He was back with me and Mr. Lazo. At what point during the that you were having with Officer Judge come back? I don't recall.	2 3 4 5 6 7 8 9 10	A. shoulder. Q. your shoulder? W A. and my arm Q. was between	Where did it hit you? On my shoulder, my right Was that the upper portion of er, the lower portion of your There exactly? Well, I guess between my shoun, my right arm. Sir, do you know for sure if it in your shoulder and right arm?	
2 3 4 5 6 7 8 9 10 11	vicinity of Mr A. Q. Officer Judge A. Q. conversation Mr. Lazo did G A. Q.	Newton only officer in the immediate Lazo? No. Where was Officer where was at that time? He was back with me and Mr. Lazo. At what point during the that you were having with Officer Judge come back? I don't recall. How long was Officer Judge in his	2 3 4 5 6 7 8 9 10 11 12	A. shoulder. Q. your shoulder? W A. and my arm Q. was between	Where did it hit you? On my shoulder, my right Was that the upper portion of er, the lower portion of your There exactly? Well, I guess between my shoun, my right arm. Sir, do you know for sure if it in your shoulder and right arm? Yes.	
2 3 4 5 6 7 8 9 10 11 12 13	vicinity of Mr A. Q. Officer Judge A. Q. conversation Mr. Lazo did A. Q. car before he	Newton only officer in the immediate Lazo? No. Where was Officer where was at that time? He was back with me and Mr. Lazo. At what point during the that you were having with Officer Judge come back? I don't recall. How long was Officer Judge in his returned to the place where the	2 3 4 5 6 7 8 9 10 11 12 13	A. shoulder. Q. your shoulder? W A. and my arm Q. was between A. Q.	Where did it hit you? On my shoulder, my right Was that the upper portion of er, the lower portion of your where exactly? Well, I guess between my shound, my right arm. Sir, do you know for sure if it in your shoulder and right arm? Yes. Could you point to the area on	
2 3 4 5 6 7 8 9 10 11 12 13	A. Q. Officer Judge A. Q. conversation Mr. Lazo did A. Q. car before he	Newton only officer in the immediate Lazo? No. Where was Officer where was at that time? He was back with me and Mr. Lazo. At what point during the that you were having with Officer Judge come back? I don't recall. How long was Officer Judge in his returned to the place where the was talking place?	2 3 4 5 6 7 8 9 10 11 12 13 14	A. shoulder. Q. your shoulder? W A. and my arm Q. was between A. Q. your shoulde	Where did it hit you? On my shoulder, my right Was that the upper portion of er, the lower portion of your there exactly? Well, I guess between my shoun, my right arm. Sir, do you know for sure if it in your shoulder and right arm? Yes. Could you point to the area on er where Mr. Lazo hit you?	
2 3 4 5 6 7 8 9 10 11 12 13 14 15	vicinity of Mr A. Q. Officer Judge A. Q. conversation Mr. Lazo did d A. Q. car before he conversation A.	Newton only officer in the immediate Lazo? No. Where was Officer where was at that time? He was back with me and Mr. Lazo. At what point during the that you were having with Officer Judge come back? I don't recall. How long was Officer Judge in his returned to the place where the was talking place? I don't know.	2 3 4 5 6 7 8 9 10 11 12 13 14 15	A. shoulder. Q. your shoulder? W A. and my arm Q. was between A. Q.	Where did it hit you? On my shoulder, my right Was that the upper portion of er, the lower portion of your where exactly? Well, I guess between my shoun, my right arm. Sir, do you know for sure if it in your shoulder and right arm? Yes. Could you point to the area on er where Mr. Lazo hit you? Right in this area (indicating).	
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	vicinity of Mr A. Q. Officer Judge A. Q. conversation Mr. Lazo did d A. Q. car before he conversation A. Q.	Newton only officer in the immediate Lazo? No. Where was Officer where was at that time? He was back with me and Mr. Lazo. At what point during the that you were having with Officer Judge come back? I don't recall. How long was Officer Judge in his returned to the place where the was talking place? I don't know. Where was Officer Judge in	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	A. shoulder. Q. your shoulder? W A. and my arm Q. was between A. Q. your shoulder A.	Where did it hit you? On my shoulder, my right Was that the upper portion of er, the lower portion of your here exactly? Well, I guess between my shoun, my right arm. Sir, do you know for sure if it a your shoulder and right arm? Yes. Could you point to the area on er where Mr. Lazo hit you? Right in this area (indicating). MR. CALLISTE: The witness is	
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	vicinity of Mr A. Q. Officer Judge A. Q. conversation Mr. Lazo did d A. Q. car before he conversation A. Q. relation to yo	Newton only officer in the immediate Lazo? No. Where was Officer where was at that time? He was back with me and Mr. Lazo. At what point during the that you were having with Officer Judge come back? I don't recall. How long was Officer Judge in his returned to the place where the was talking place? I don't know. Where was Officer Judge in u at the time that this elbow	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A. shoulder. Q. your shoulder? W A. and my arm Q. was between A. Q. your shoulde A. indica	Where did it hit you? On my shoulder, my right Was that the upper portion of er, the lower portion of your There exactly? Well, I guess between my shoun, my right arm. Sir, do you know for sure if it in your shoulder and right arm? Yes. Could you point to the area on er where Mr. Lazo hit you? Right in this area (indicating). MR. CALLISTE: The witness is sting the upper shoulder area.	ılder
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	vicinity of Mr A. Q. Officer Judge A. Q. conversation Mr. Lazo did A. Q. car before he conversation A. Q. relation to yo was thrown be	Newton only officer in the immediate Lazo? No. Where was Officer where was at that time? He was back with me and Mr. Lazo. At what point during the that you were having with Officer Judge come back? I don't recall. How long was Officer Judge in his returned to the place where the was talking place? I don't know. Where was Officer Judge in	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A. shoulder. Q. your shoulder? W A. and my arm Q. was between A. Q. your shoulde A. indica A.	Where did it hit you? On my shoulder, my right Was that the upper portion of er, the lower portion of your where exactly? Well, I guess between my shoun, my right arm. Sir, do you know for sure if it a your shoulder and right arm? Yes. Could you point to the area on er where Mr. Lazo hit you? Right in this area (indicating). MR. CALLISTE: The witness is siting the upper shoulder area. I would say this would be more	ulder e my
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	vicinity of Mr A. Q. Officer Judge A. Q. conversation Mr. Lazo did d A. Q. car before he conversation A. Q. relation to yo was thrown b Mr. Lazo?	Newton only officer in the immediate Lazo? No. Where was Officer where was at that time? He was back with me and Mr. Lazo. At what point during the that you were having with Officer Judge come back? I don't recall. How long was Officer Judge in his returned to the place where the was talking place? I don't know. Where was Officer Judge in u at the time that this elbow y Mr. Kenny as you described by	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A. shoulder. Q. your shoulder? W. A. and my arm Q. was between A. Q. your shoulde A. indica A. upper arm.	Where did it hit you? On my shoulder, my right Was that the upper portion of er, the lower portion of your where exactly? Well, I guess between my shound, my right arm. Sir, do you know for sure if it anyour shoulder and right arm? Yes. Could you point to the area on er where Mr. Lazo hit you? Right in this area (indicating). MR. CALLISTE: The witness is siting the upper shoulder area. I would say this would be my shoulder.	ulder e my
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	vicinity of Mr A. Q. Officer Judge A. Q. conversation Mr. Lazo did d A. Q. car before he conversation A. Q. relation to you was thrown b Mr. Lazo? A.	Newton only officer in the immediate Lazo? No. Where was Officer where was at that time? He was back with me and Mr. Lazo. At what point during the that you were having with Officer Judge come back? I don't recall. How long was Officer Judge in his returned to the place where the was talking place? I don't know. Where was Officer Judge in u at the time that this elbow	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A. shoulder. Q. your shoulder? W A. and my arm Q. was between A. Q. your shoulde A. indica A. upper arm. somewhere	Where did it hit you? On my shoulder, my right Was that the upper portion of er, the lower portion of your where exactly? Well, I guess between my shoun, my right arm. Sir, do you know for sure if it anyour shoulder and right arm? Yes. Could you point to the area on er where Mr. Lazo hit you? Right in this area (indicating). MR. CALLISTE: The witness is siting the upper shoulder area. I would say this would be more and this would be my shoulder. In this area (indicating).	ulder e my
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	vicinity of Mr A. Q. Officer Judge A. Q. conversation Mr. Lazo did d A. Q. car before he conversation A. Q. relation to you was thrown b Mr. Lazo? A.	Newton only officer in the immediate Lazo? No. Where was Officer where was at that time? He was back with me and Mr. Lazo. At what point during the that you were having with Officer Judge come back? I don't recall. How long was Officer Judge in his returned to the place where the was talking place? I don't know. Where was Officer Judge in u at the time that this elbow y Mr. Kenny as you described by I believe he was behind me to my MR. DUNNE: Off the record. (Discussion off the record.)	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	A. shoulder. Q. your shoulder? W A. and my arm Q. was between A. Q. your shoulde A. indica A. upper arm. somewhere Q. pad. A.	Where did it hit you? On my shoulder, my right Was that the upper portion of er, the lower portion of your where exactly? Well, I guess between my shoun, my right arm. Sir, do you know for sure if it your shoulder and right arm? Yes. Could you point to the area on er where Mr. Lazo hit you? Right in this area (indicating). MR. CALLISTE: The witness is sting the upper shoulder area. I would say this would be more and this would be my shoulder. I in this area (indicating). I was looking at your shoulder	e my So
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	vicinity of Mr A. Q. Officer Judge A. Q. conversation Mr. Lazo did d A. Q. car before he conversation A. Q. relation to you was thrown b Mr. Lazo? A.	Newton only officer in the immediate Lazo? No. Where was Officer where was at that time? He was back with me and Mr. Lazo. At what point during the that you were having with Officer Judge come back? I don't recall. How long was Officer Judge in his returned to the place where the was talking place? I don't know. Where was Officer Judge in u at the time that this elbow y Mr. Kenny as you described by I believe he was behind me to my MR. DUNNE: Off the record.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	A. shoulder. Q. your shoulder? W. A. and my arm Q. was between A. Q. your shoulde A. indica A. upper arm. somewhere Q. pad. A. Q.	Where did it hit you? On my shoulder, my right Was that the upper portion of er, the lower portion of your where exactly? Well, I guess between my shound, my right arm. Sir, do you know for sure if it anyour shoulder and right arm? Yes. Could you point to the area on er where Mr. Lazo hit you? Right in this area (indicating). MR. CALLISTE: The witness is siting the upper shoulder area. I would say this would be more and this would be my shoulder. I was looking at your shoulder	e my So

Case 2:09-cv-01023-ST Document 70-4 Filed 01/09/19 Page 140 of 286 PageID #: 2161 GONZALEZ -V- COUNTY OF SUFFOLK DET. JOHN NEWTON 97 99 1 Newton 1 Newton 2 It was enough to knock me back. Α. 2 anything to break the hold? 3 It was wasn't a big force, but it was enough 3 A. No. to knock me back. 4 Q. Do you know why Officer Judge Q. What happened next? released his bear hug? 5 6 A. I tried to grab him. But I 6 Α. At that time? 7 wasn't able to grab him. 7 Q. Yes. 8 Q. You tried to grab him? A. No. 9 Α. Tried to grab him with my arm. 9 Q. At the time that the bear hug was 10 Q. Where did you try to grab him? 10 taking place by Officer Judge, do you know 11 A. Just tried to grab him. It 11 where Sgt. Scimone was? 12 wasn't really in any specific area. 12 Α. No. 13 Q. At the time that you were trying 13 Q. Where were you at that time? 14 to grab him, what was he doing, Mr. Lazo? 14 A. I was behind Officer Judge. 15 Α. He was trying to run away. 15 Q. With respect to Detective Talt, 16 Q. In which direction was he trying did you know where Detective Talt was at that 16 17 to run? 17 time? 18 Α. He was running parallel to the 18 A. No. 19 Southern State Parkway on the passenger side 19 Q. While this scuffle was taking 20 of the vehicle. So he was heading east. 20 place, were there any words being said? 21 Q. How far did Mr. Lazo -- well --21 Α. If they were, I couldn't hear. 22 MR. CALLISTE: Withdrawn. 22 Q. Do you recall if Mr. Lazo said 23 Q. Did there come a time that he was 23 anything that you could recall at that time? 24 stopped? 24 A. At that time, no. Α. He was stopped by Officer Judge. 25 Q. At the time Mr. Lazo threw the 98 100 1 Newton 1 Newton 2 Q. How did Officer Judge stop him 2 elbow that connected with your shoulder, do 3 from runnina? 3 you recall Mr. Lazo saying anything at that 4 Α. He bear hugged him around his 4 point? 5 waist. 5 A. No. 6 Q. How far did Mr. Kenny -- Mr. Lazo run before Q. Did there come a time after 7 he was stopped by Officer Judge? Mr. Lazo had broke the bear hug --8 Α. A few strides. He was still on 8 MR. CALLISTE: Withdrawn. 9 the side of the vehicle. 9 Q. After Mr. Lazo was released from 10 Q. When Mr. Lazo was bear hugged by the bear hug of Officer Judge, what happened Officer Judge, what portion of his body did 11 11 next? 12 Officer Judge wrap his arms around? 12 Α. He started to run -- again, 13 Α. I would say it was around his 13 started out running east and then he ran in 14 waist. 14 front of his car. Now I guess he would be 15 Q. When that occurred, what happened 15 heading north towards Southern State Parkway 16 next? 16 roadway, 17 Α. I thought that we had Mr. Lazo. 17 Q. Then what happened? 18 Q. What, if anything, did Mr. Lazo 18 Α. Officer Judge was able to take do when he was being bear hugged by Officer 19 19 him down again. 20 Judge? 20 When you say "take him down Α. I didn't see him doing anything. 21 again," was Mr. Kenny thrown to the ground at I saw just Mr. -- Officer Judge release his 22 that point -- Mr. Lazo? 23 bear hug, and Mr. Lazo started running again. 23 Α. He was able to be brought down to

Did you see at that point

Mr. Lazo attempt to strike Officer Judge or do

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24

25

the ground, yes.

Was he ever on the ground prior

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GONZALEZ -V- COUNTY OF SUFFOLK	

101

DET. JOHN NEWTON

103

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Not that I recall, no. Α. 3

> Q. How was he taken to the ground?

Newton

A. I don't know. He was taken to 5

the ground by Officer Judge. But I don't know 6

exactly how it was done. 7

Were you at all involved in the

process of taking him down to the floor? 9

> Α. No.

Q. At'the point that he was taken 11

down to the ground by Officer Judge, where 12

were you at that point? 13

> Α. Again, I was still behind Officer

Judge. But now I was going towards Officer 15

Judge and Kenny Lazo. 16

> Q. Did you have occasion to see or

did you notice where Sgt. Scimone was at that

19 point?

A. 20 No.

Q. Did you have occasion to observe 21

how Mr. Kenny went down to the ground? 22

> Α. No.

Q. Do you know if Police Officer 24

Judge was on top of Mr. Kenny as he went down? 25

102

Newton 1

2 Α. It was I guess sort of like a

tackle. And he, Mr. Lazo, went down face

first. And Officer Judge was on his legs and

5 waist area.

Q. 6 How far was he in relation to his

vehicle at the time that he was taken down? 7

Well, he was in front of his Α.

vehicle. I don't know exactly how far it was.

10 Q. When Mr. Lazo went to the ground,

did you see him -- how did he fall? Did you 11

see that? 12

Α. He fell down like it was a 13

football type tackle, face first. 14

Were you able to observe whether 15

Mr. Lazo put his hand out or his arm out to 16

17 break his fall?

Α.

Q. Do you know if Mr. Lazo was able

to break his fall at all? 20

Α. 21

> Q. Do you know what portion of

Mr. Lazo's body hit the ground when he was

24 taken down first?

25 Α. What portion? Newton

Q. Yes.

Α. Eventually all of his body was on 3

the ground.

Q. Did you have occasion to notice

how Officer Judge hit the ground?

Α. How Officer Judge hit the ground?

Q. Yes.

9 Α. No.

Q. Was Officer Judge on the ground 10

at some point? 11

12 Α. He was laying on top of Mr. Lazo, and some portion of his body was on the 13

ground. Yes. 14

15 Q. Was there ever a point that

Mr. Lazo was on top of Officer Judge? 16

> Α. No.

Q. Was there ever a point where 18

Mr. Lazo was on top of any of the officers? 19

Α.

21 Q. When Mr. Lazo was taken down to

22 the ground by Officer Judge, what happened

23 next?

> Α. I ran up to Officer Judge and

Mr. Lazo, and I got on my knees. And I took

104

Newton

hold of Mr. Lazo's left-hand or left arm. 2

At the time that you took a hold

of Mr. Lazo's left arm, was he facing up or

5 down?

> A. Down.

Q. 7 What, if anything, was he doing

with his arm at that time? 8

9 Α. He was flailing his arms. He

wouldn't let me initially grab his arm.

How long after Mr. Lazo hit the 11 Q. ground did you attempt to take his arm? 12

Α. Right away. As soon as I got up 13

14 to him. So, a few seconds.

What, if anything, was Officer 15

Judge doing at the time that you were trying 16

17 to take his arm?

> Α. He was holding onto Mr. Lazo.

Q. How was he holding onto Mr. Lazo?

A. He was holding onto him again 20 with a bear hug around his leg and waist ar 21

At that time was Officer Judge --22 Q.

23 where was he positioned in relation to

Mr. Lazo's body? 24

25 On top of him.

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19

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DET. JOHN NEWTOI

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105 Newton

2 Q. At that time were you able to see
3 Sgt. Scimone?

A. At some point in time I do observe Sgt. Scimone go to the right side of Mr. Lazo and try to grab onto his other arm.

Q. How long after you first made contact with Mr. Lazo's arm did Sgt. Scimone appear?

A. I don't recall.

11 Q. How was Sgt. Scimone trying to 12 grab Mr. Lazo's arm?

A. I don't know.

Q. Were any words being spoken atthe time that Officer Judge, yourself andMr. Lazo were on the ground?

A. Yes.

Q. What was being said?

A. I was yelling that, You are under arrest. Put your arms behind your back so we can handcuff you.

Q. Did Mr. Lazo respond to that verbally?

A. Verbally by cursing and yelling.
But he didn't respond by any direct answer to

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Newton

2 that.

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Q. Do you recall Officer Judge saying anything at that time?

A. Pretty much we were all saying something. I don't know exactly what was being said.

Q. Do you recall anything being said by Sgt. Scimone at that time?

A. The same. I know things were being said. But I don't know what was exactly being said.

Q. At that point you were trying to grab his left arm. What happened next?

A. Well, I was holding onto his left arm, trying to get control of that arm so that I could put it behind his back. Again, I wasn't being -- I wasn't able to do that. And my concern is that at some point in time we have to handcuff him. So I had to get my handcuffs.

Q. Would it be accurate to say from the point that Mr. Lazo hit the ground initially, you had taken his left arm,

Newton

2 A. Correct.

Q. Then at some point Sgt. Scimone

4 took his right arm, correct?

A. Correct.

Q. Then what happened?

A. I was trying to control his arm.

8 And at some point I was concerned that we have

9 to handcuff him. So I went to get my

handcuffs.

Q. Where were your handcuffs at that

12 time?

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13 A. I normally keep them in the small 14 of my back in my belt.

15 I went to grab them there, and 16 they were not there. I took one hand off to 17 grab my handcuffs, and they were not there.

Q. What did you do next?

A. So I took off both my hands and started looking around, and feeling my pockets to see if I could get my handcuffs.

Q. At the time that you took both ofyour hands off, what, if anything, happenedwith respect with Mr. Lazo?

A. At that point in time -- sometime

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Newton

2 when I was looking for my handcuffs,

I heard Officer Judge yell, My gun. My gun.

4 Q. How long after you took your5 hands off Mr. Lazo to look for your handcuffs

6 did you hear Officer Judge yell, My gun, my

7 gun?

8 A. I can't give you an exact time.

Q. Was it more than a minute, do you

10 know?

9

12

11 A. No.

MR. CALLISTE: Let's take a

13 break.

14 (Recess taken.)

Q. At the time that you heardOfficer Judge mention something about his gun,

17 what exactly did Officer Judge say?

18 A. I remember him saying, My gun.

19 My gun.

Q. At that time did you form abelief as to what Officer Judge was trying

21 belief as to what Officer Judge was trying to22 say? What did you believe Officer Judge was

23 saying?

A. That something was going on with his gun. That possibly Mr. Lazo was grabbing

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correct?

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109 111 Newton Newton 1 1 2 Α. Again, he was just on the other 2 for his gun. side of Mr. Lazo. I don't know exactly what Did you see Mr. Lazo grabbing for Q. 3 Officer Judge's gun? he was doing. 4 Q. A. 5 Did you ever hear Sgt. Scimone No. 5 indicate that Mr. Lazo had a gun? Q. 6 At the time that Officer Judge 6 Α. 7 No. yelled, My gun, my gun, where was he in 7 relation to Mr. Kenny -- I mean Mr. Lazo? Q. Did you ever hear Sgt. Scimone 8 8 indicate that Mr. Lazo was attempting to reach Α. I believe he was in the same 9 position that he was in when he originally 10 for Officer Judge's gun? 10 Α. tackled him. I don't know exactly where he No. 11 11 12 Q. Again, Sgt. Scimone had control was, though. 12 Q. of Mr. Lazo's right arm, correct? What was Officer Judge doing with 13 13 He was over on that side of his hands? 14 14 Mr. Lazo. I don't know if he had control or Α. I don't know. 15 15 Q. not. Did he still have Mr. Lazo in a 16 16 bear hug, as far as you know? Q. You indicated that Sgt. Scimone 17 17 was grabbing his right arm, correct? Α. I believe he did. But I don't 18 18 Α. Attempting to grab his right arm, know for sure. 19 19 You also indicated that Officer correct. 20 Q. 20 Judge had control of Mr. Kenny's -- Mr. Lazo's 21 Q. Sir, at any time while Mr. Lazo 21 knees, correct? 22 was on the floor --22 MR. CALLISTE: Withdrawn. Α. 23 23 No. Q. Q. You testified earlier that 24 What happened next? 24 Α. At some point in time Officer Judge went down on Mr. Lazo's knees? 25 25 110 112 Newton 1 Newton 1 Sgt. Scimone yells out that somebody call for Α. No, I did not. 2 2 an assist. We need help. Q. What happened after that, after 3 Q. How long after Officer Judge made you heard Officer Judge say gun? 4 4 5 Α. I went right back to Mr. Lazo's that exclamation about the gun did Sqt. Scimone yell for backup? left arm. I took control of it. 6 6 I don't know exactly how long. 7 Α. Q. How did you take control of 7 It was less than a minute. Mr. Lazo's arm? 8 8 At that time where was Officer 9 Α. I grabbed his arm with both of my 9 Q. Talt -- Detective Talt, if you know? 10 hands. 10 Α. Q. Were you able to find your 11 Don't know. 11 Q. handcuffs? 12 During that entire scuffle, did 12 Detective Talt appear anywhere? Α. No. 13 13 Α. Q. 14 No. 14 So after you grabbed his -- you Q. 15 Detective Talt at the time that took control of his left arm again, what 15 you described was staying back but at a safe happened next? 16 16 distance for your safety, correct? 17 Α. I could see that he didn't have a 17 Α. He was ahead of us, yes. gun in his hand. I could see that he didn't 18 18 Q. You knew he was in the area. have a gun in his right hand. So I knew that 19 19 he was not -- did not have Officer Judge's correct? 20 20 Α. gun. So I just tried to keep control of his 21 Correct. 21 hand and his arm. Q. To your knowledge, he had a 22 22 visual on you, correct? Q. At the time that Officer Judge 23 23 I don't know that. yelled gun, what, if anything, was 24 Α. 24

Sqt. Scimone doing?

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Q.

To your knowledge, he was within

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115

1 Newton 2 a safe distance so that he could respond in 3 the event that something happened, correct?

A. Correct,

MR. DUNNE: Object to the form of the question. I don't know what safe means.

The answer stands. It is just to form. Go ahead.

Α. Yes.

Q. Did Detective Talt appear at any point when Mr. Lazo was on the ground?

> Α. No.

Q. Did Detective Talt appear at any point during that stop?

Α. After Mr. Lazo was placed in handcuffs and we had a controlled situation, **Detective Talt appeared.**

Now, while Mr. Lazo was on the ground, did you observe anyone -- observe any officer strike Mr. Lazo?

Α. I could sense that he was being hit, but I didn't exactly observe.

Q. Did you personally strike Mr. Lazo?

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Newton

Α. No, I did not.

Q. How was it that you were able to sense that Mr. Lazo was being hit?

Α. I could sense again that he was being hit with something.

Q. How were you able to sense that?

Α. Just -- could feel it, could sense it.

10 Q. What was that sense, if you could 11 describe it?

Α. I could feel that something was being hit -- Mr. Lazo was being hit with something.

Q. Were you able to determine where those hits were coming from?

> Α. No.

Q. Do you know if Mr. Lazo was the

one hitting? 19 20

Α. No.

Q. Did you hear anything that made you determine that Mr. Lazo was being hit?

Α. 23 No.

24 Q. Did you feel anything that made you determine that Mr. Lazo was being hit?

Newton

A. No.

Q. 3 Did you see anything that made vou determine that Mr. Lazo was being hit?

A. No.

Q. 6 What is the sense --

Α. I could just feel that he was

being hit with something. I was concentrating

on his arm. I was looking at his arm, I

wasn't looking up. I don't know who was

hitting him. I don't know where he was being 11

hit. But I could sense that he was being hit.

13 At the time that you could sense

that Mr. Lazo was being hit, did you hear 14

15 Mr. Lazo saying anything?

16 A. The whole time all he was doing 17 was cursing. He was agitated and upset.

18 Q. The sense that you had that 19 Mr. Lazo was being hit, did you have the sense

20 that Mr. Lazo was being hit with objects, or

21 with fists, or something else?

22 He was being hit with something. 23 Whether it was a fist or object, I don't know.

24 Q. At any point during the scuffle,

25 was Mr. Lazo placed in handcuffs?

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Newton

2 A. Yes.

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Q. At what point?

4 Α. After I asked for an assist over the radio, I run back towards Mr. Lazo and the

officers. I locate my handcuffs which were in 7 my left back pocket. I was able to handcuff

Mr. Lazo's left wrist. His right wrist was

handcuffed I assume by Sgt. Scimone. I don't

know that for sure. Then we handcuffed the 10

11 two handcuffs together. We were not able to

get his arms close enough together to use one 12 13 handcuff.

14

Q. At the time that you ran to your 15 vehicle to call for assistance, as you testified a moment ago, was Mr. Lazo in cuffs? 16

Α. No.

18 Q. Was Mr. Lazo's left arm, the arm 19 that you had, under control?

> A. If it was, it wasn't by me.

Q. Well, you had his arm, correct?

Α. Yes. When I left, I don't know if anybody had control of his arm.

24 At the time that you got up, was

Mr. Lazo's arm under control immediately? 25

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Case 2:09-cv-01023-ST Document 70-4 Filed 01/09/19 Page 145 of 286 PageID #: 2166 DET. JOHN NEWTON GONZALEZ -V- COUNTY OF SUFFOLK 117 119 Newton 1 Newton 1 Α. What do you mean when I got up? 2 being struck? 2 Α. Q. When you got up to make the call, 3 3 Q. So you ran to -- what car did you 4 correct? 4 go to to call 911? Did you go to your car? Α. 5 Yes. No. I went to the marked COPE Q. At the time that you got up, when 6 6 Unit. And I didn't call 911. you immediately got up, what was Mr. Lazo's 7 7 Q. You called Dispatch, correct? 8 arm doing? 8 Α. I let go of his arm and I ran 9 I attempted to. But it was 9 back to the car. So I don't know what his arm 10 actually on the Detective Band when I made the 10 initial safety request. It didn't go to a 11 was doing. 11 dispatcher. Q. You didn't -- at that point there 12 12 Q. 13 Where did that call go to, to were some allegations, or it was possible that 13 vour knowledge? Mr. Lazo was trying to reach for a gun, 14 14 We don't have a dispatcher on the correct? There was an officer yelling that, 15 Α. 15 Detective Band. So it just went out. I 16 16 correct? actually -- I realized that Detective Talt Α. At that point or prior to that? 17 17 Q. heard it. And he dispatched it over the During the scuffle. 18 18 Α. 19 primary or over the Third Precinct Band. 19 Correct. 20 Q. At what point did you realize 20 Q. And Mr. Lazo was flailing, 21 that Detective Talt heard it? according to you, correct? 21 22 Α. As I was running back to the car, Α. Correct. 22 Q. He wasn't under control? 23 I could hear him on Detective Band. 23 24 Q. Did you have a radio on your Α. Correct. 24 25 Q. person at that time? He was on the side of the 25 120 118 Newton Newton 1 1 parkway, correct? 2 Α. No. 2 So you were able to hear 3 Q. 3 Α. Yes. Detective Talt on the band coming from the Q. By the way, were there cars 4 vehicle, correct? 5 moving? 5 Α. 6 A. Yes, there were. 6 Yes. Q. 7 While the scuffle was occurring, 7 Q. So, this was a pretty dangerous 8 correct? 8 situation, correct? I was running back to assist Α. 9 Α. 9 Yes. Detective -- Officer Judge, Sgt. Scimone. I Q. It wasn't under control at the 10 10 could hear Detective Talt saying that I was on 11 point that you got up to go to make that call 11 Detective Band, yes. 12 for backup, was it? 12 Q. What, if anything, did you hear 13 Α. What do you mean by "wasn't under 13 control"? Detective Talt say? 14 14 15 Α. I heard Detective Talt say that I Q. You didn't have control of Mr. 15 was on Detective Band. 16 Lazo? 16 Q. That he, himself, was on 17 Α. I had his arm, yes. 17

Q.

loose, correct?

Α.

Q.

Α.

Q.

Correct.

up, did you see anyone striking Mr. Lazo?

you still have that sense that Mr. Lazo was

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When you got up, you left his arm

Sir, at the point that you got

At the point that you got up, did

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Detective Band?

That I, me, was on Detective

That you were on Detective Band?

That I was broadcasting on

What does that mean?

Α.

Q.

Α.

Q.

Α.

Detective Band.

I, yes.

Band.

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Newton

Q. I'm not sure I'm following you. MR. DUNNE: Explain what you mean in more detail.

Α. There are seven precincts. Each precinct has its own band. We have a Detective Band and other bands. The Detective Band or Detective channel is what we would use, and what we were using during this incident.

When I went back to the police 12 car, I did not know that it was still on the Detective channel. So when I broadcasted I 13 14 needed an assist, it went out on the Detective channel. And so there is no dispatcher to heip me.

Detective Talt was monitoring that channel. So as I was running back, I could hear the police radio, I could hear him go over Detective Band. I could hear him say, John, you are on Detective Band.

I find out later on that he then broadcast it on primary that we needed an assist.

> Q. As you left the vehicle, the COPE

> > 122

Newton

vehicle to go back to where the scuffle was taking place, what happened next?

Α. As I went back to make -- assist Sgt. Scimone and Officer Judge, I located my handcuffs. They were in my back left pocket. I was able -- I went back to Kenny Lazo's left arm. I was able to get a handcuff on his left wrist.

10 Q. How long in total did that scuffle last? 11

Α. I don't know for sure. A couple of minutes. Five minutes.

14 Q. You reviewed radio runs regarding this incident, correct? 15

> Α. Correct.

Q. 17 You reviewed other documentation regarding this incident, correct? 18

> Α. Correct.

Q. Were you able during your review to determine what had occurred at certain times and things that you viewed at certain times, correct?

Α. Correct.

Q. During your review of the Newton

incident that occurred, were you able to make

a determination as to how long the scuffle

lasted?

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Α. No.

Q. 6 Were you ever asked by anyone how 7 long the scuffle lasted?

Α. I was asked, How long do you think the scuffle lasted? I said, A few 10 minutes to five minutes.

Q. While you were returning from the COPE vehicle where you placed the call back to the area where the arrest was taking place, 13 what did you see, if anything, Mr. Lazo doing?

He was still on the ground. And Α. Officer Scimone and Sgt. -- I mean Sgt. Scimone and Officer Judge were still trying to control him.

So at the point that you were turning back from making the call over the Detective ---

MR. CALLISTE: Withdrawn.

23 Q. The vehicle that you made the call from was a COPE vehicle, correct? 24

Α. Correct.

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Newton

2 Q. The detectives weren't driving 3 that vehicle?

4 Α. No. Officer Scimone -- Officer Judge was driving. Sgt. Scimone was the 6 passenger.

7 Q. Did you make the call 8 intentionally over the Detective Band? 9

Α. Did I intentionally make that? No.

11 Q. From the vehicle that was not a 12 detective vehicle?

A. 13 I don't understand.

14 In other words, would the COPE vehicle have been set to the Detective Band, 15 16 to your knowledge?

17 Α. It was set to the Detective Band.

18 Q. Though there were no detectives

19 in that vehicle?

20 Α. No, there were no detectives in 21 that vehicle.

22 Q. When you picked up the device to 23 make the call back -- to call for backup, is it your testimony that the radio, the band in

the COPE car was already set to the Detective 25

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GONZALEZ -V- COUNTY OF SUFFOLK

DET. JOHN NEWTON

125 127 Newton Newton 1 officers hit Mr. Lazo in the face? 2 Band? 2 3 Α. No. Α. That is my testimony, yes. 3 Q. Q. Did you ever hit Mr. Lazo in his Did there come a time -- there 4 4 came a time that you were able to place 5 face? 5 Α. 6 No, I did not. Mr. Lazo's hands in cuffs, correct? 6 7 Q. Were there any other items of Α. Correct. 7 clothing off of Mr. Lazo that were originally Q. At the time that Mr. Lazo was in 8 8 on, before the scuffle took place? 9 cuffs, did you make any observations of his 9 Not that I recall, no. Α. physical appearance? 10 10 11 Q. Did Mr. Lazo have his shoes on? Like what? He was still laying Α. 11 I don't remember if he had both on the ground when he was in handcuffs. 12 Α. 12 shoes on or not. Q. Did you see any blood? 13 13 Q. What happened next? Α. 14 14 The first car, Unit 314, arrived. The Α. Q. Did you see any bruising on 15 15 16 situation was pretty much under control. Mr. Lazo? 16 Mr. Lazo was handcuffed. He was still laying Α. No. 17 17 on the ground, still agitated. Q. Did Mr. Lazo have his clothes on? 18 18 Α. He was partially clothed, yes. 19 We were able to -- he was able to 19 get to his feet with the assistance of Officer Q. When you say "partially clothed," 20 20 Link. And he was brought to Officer Link's what items of his clothing were off? 21 21 22 car. 22 Α. I believe he was wearing either a Q. Now, was Officer Link operating sweatshirt or sweater that -- he no longer had 23 23 Unit 314? 24 24 that on. Q. 25 Α. Yes, he was. What, if anything, was Mr. Lazo 25 128 Newton 1 1 Newton Q. Unit 314 was the first unit to wearing on the upper portion of his body at 2 2 arrive on the scene? the time that the scuffle was talking place? 3 3 Α. Α. I believe it was a T-shirt, but 4 Yes. 4 Now, at what point did Detective Q. 5 I'm not sure. 5 Talt arrive at the scene? Was that T-shirt still on at the 6 6 Q. point where Mr. Lazo was cuffed? 7 Α. Later on. There was only a few 7 Α. 8 police cars there. 8 Yes. Approximately how many police Q. Did you notice any blood on the 9 9 cars had arrived at the scene before Detective T-shirt? 10 10 Talt arrived? Α. 11 11 Q. 12 Α. I couldn't give you an exact 12 As far as Mr. Lazo's face, did number. I don't know. There was more than 13 you notice any bruising, scars, anything like 13 one police car there. that? 14 14 You just described that Mr. Lazo A. He had an abrasion on his face. 15 15 Q. On what portion of his face did was able to get up to his feet. Was he able 16 16 to walk on his own at that point? he have an abrasion? 17 17 A. Α. I don't recall. I know his face 18 Yes. 18 At the point that Mr. Lazo was Q. 19 had an abrasion on it. 19 able to get up to his feet, did you observe or Q. Can you describe the abrasion? 20 20 Α. It was more like a cut. A scrape 21 make any observations about his physical 21 condition at that time? I guess would be better. 22 22 I was able to observe him walk to At the time that Mr. Lazo was on Q. 23 23 the police car on his own power. 24 the ground and was trying to -- and was being 24

Just for the record, there was no

subdued by the officers, did you see any

25

Q.

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Newton

Α. I didn't say anything to him.

Q. Were any of the officers saying

anything to Mr. Lazo that you are able to recall?

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6 Α. They were just telling him to get in the car. 7

Q. Was he placed in the car?

A. Yes.

Q. 10 That is Officer Link's car?

> Α. Yes.

saying to Mr. Lazo?

Q. Was Officer Link in uniform or

13 not?

> Α. Yes, he was in uniform.

Q. Officer Link's car, was that a

marked vehicle or unmarked? 16

> Α. It is a marked vehicle.

Q. Is Officer Link part of COPE as

well? 19

> Α. No.

Q. Do you know if -- what precinct Officer Link works out of?

Works in the Third Precinct. Α.

Q. You knew Officer Link before this

incident?

33 of 47 sheets

20 21 it was.

> Q. Did you ever place that in

any writings of where you understood the bag

ground, or -- I don't know exactly where it

1 Newton 2 was found. I believe it was on the ground as he was walking Mr. Lazo to the car. But I

don't know for sure.

5 Q. As you sit here today, have you ever known exactly where that bag of drugs was 6 7

found?

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Page 129 to 132 of 187

A. 8 No.

Q. 9 Did Officer Link ever tell you 10 that that bag of drugs, that was recovered

11 somewhere off of Mr. Lazo?

> Α. Yes.

13 Q. Did he tell you where the drugs

were -- the drugs were recovered from? 14

15 Α. He probably did. I just don't 16 recall exactly where it was recovered from.

To your knowledge, have you ever known where the bag of drugs was recovered

19 from?

> Α. Yes. I just don't recall where

23 writing anywhere? Do you ever recall making 24

25 of drugs to be found?

GONZALEZ -V- COUNTY OF SUFFOLK 133 135 Newton 1 Newton 1 following -- given the fact that there was a 2 A. I don't know. I might have done scuffle wherein use of force was used that it on my paperwork. 3 Mr. Lazo should be transported to the Was that in any of the documents Q. 4 5 hospital? that you reviewed in preparation for this 5 A. 6 deposition today? 6 No. Q. 7 Did you ever have those 7 Α. discussions with any officers, regarding Q. What happened after that? 8 whether he should be transported to the 9 A. Mr. Lazo was transported into the 9 precinct by Unit 314. Myself and Detective 10 hospital? 10 When we got back to the precinct, 11 Α. 11 Talt transported the Cadillac into the when he was having problems in the Squad Room, precinct. I believe Detective Talt operated 12 12 that is when it was determined that he was the Cadillac. And I followed him in the 13 13 going to go to the hospital. 14 unmarked police vehicle. 14 15 Q. Prior to the Squad Room? 15 Q. When Mr. Lazo was placed in the Α. No. patrol car of Officer Link, did he remain 16 16 seated in that patrol car for a time before 17 Q. We are talking about at the 17 18 scene. the car left the scene, or did the car leave 18 Α. 19 No. 19 the scene immediately? Q. You and the other officers made It was a short period of time. 20 20 Α. 21 the determination, even though there was a 21 It wasn't a long period of time that he was 22 scuffle, that he would go straight to the 22 transported into the precinct. 23 Q. Were you able to make 23 precinct, correct? observations of Mr. Lazo while he was in the A. 24 Correct. 24 25 Q. Now, do you know if there are any 25 car of Officer Link? 136 134 1 Newton 1 Newton 2 Α. No. Other than he was just rules and regulations that state that a prisoner has to be taken to the hospital after sitting in the back seat of the car. 3 Q. At the time when Mr. Lazo's a scuffle, after the use of force is used by 4 officers? placed in cuffs to the time that he was placed 5 5 If he makes a complaint, or if we in Officer Link's vehicle, did Mr. Lazo make 6 Α. 6 feel that he should go to the hospital, yes, 7 any complaints about being in pain? he should go to the hospital. Α. 8 9 That would be before he is Q. Q. 9 Did you ever hear Mr. Lazo moan brought into the precinct, correct? or make sounds as though he was in pain? 10 10

11 A. No, I did not.

Q. Did Mr. Lazo appear to be in

13 pain?

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15

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14 A. No.

Q. Did anyone ask, as far as you

16 know, Mr. Lazo at the scene whether he needed

17 medical attention?

A. No.

19 Q. Did anyone call for an ambulance

20 at the scene of the arrest?

A. No.

22 Q. Did any ambulance ever respond to

23 the scene of the arrest?

A. No.

25 Q. Did you ever make a determination

A. No, it is not.

12 Q. At what point -- if a scuffle
13 took place and a person is bruised as a result
14 of the scuffle, what duty, if any, do you have
15 as an officer to assess that and determine
16 whether he is to be taken to the hospital?

A. At some point in time if we feel that he should go to the hospital or if he makes a complaint to go to the hospital, we make every effort to get him to the hospital.

Q. You indicated that you knew that

22 Mr. Lazo was being hit? You had that feeling?

23 A. Correct.

24 Q. Even with that you didn't believe

25 that it was important to have him checked out

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	137			139
1	Newton	1		Newton
2	before bringing him to the precinct, did you?	2	point?	
3	A. At that point in time it was	3	A.	I was off to the side.
ြို့	determined that he was going to go into the	4	Q.	Were you still at the scene?
	precinct. If need be, he would go from the	5	A.	Yes.
6	precinct to the hospital.	6	Q.	Were you outside or inside of
7	Q. Sir, at that point that Mr. Lazo	7	your car?	
8	was sitting in the vehicle	8	A.	Outside.
9	MR. CALLISTE: Withdrawn.	9	Q.	What, if anything, were you doing
10	Q. At what point did Officer Talt	10	at that time?)
11	respond to the scene?	11	A.	I wasn't doing anything.
12	A. He was at the scene. I don't	12	Q.	When Mr. Lazo left the scene in
13	exactly remember if it was before or after	13	Officer Link's	car, where were you at that
14	Mr. Lazo was transported to the precinct.	14	time?	•
15	Q. Do you recall having any	15	A.	Same spot I was before.
16	face-to-face conversations with Detective Talt	16	Q.	Did there come a time that you
17	while Mr. Lazo was seated in the vehicle?	17	left the scene	e?
18	A. Yes. Well, I remember I'm	18	A.	Yes.
19	sorry. I remember having conversations with	19	Q.	Prior to leaving the scene, what
20	Detective Talt. Again, I don't remember if it	20	did you do, if	
21	was before or after Mr. Lazo's transport.	21	A.	Checked the area to make sure
22	Q. Was it at the scene of the	22	there was n	o other contraband around. We then
23	arrest?	23	transported	his vehicle into the precinct.
24	A. Yes.	24		How was his vehicle transported
35	Q. What, if any, conversations did	25	to the precind	
	138			
-	130	1		140
1	Newton	1		140 Newton
1 2	Newton you have with Detective Talt at that time?	1 2	A.	i :
1 2 3	Newton you have with Detective Talt at that time? A. I just explained to him kind of	- 1		Newton
3	Newton you have with Detective Talt at that time? A. I just explained to him kind of briefly what happened. That Mr that he	2	And I follow	Newton Detective Talt drove the vehicle.
3	Newton you have with Detective Talt at that time? A. I just explained to him kind of briefly what happened. That Mr that he didn't want to get handcuffed, that he was	3	And I follow Q.	Newton Detective Talt drove the vehicle. red him in a police vehicle.
3 4 5 6	Newton you have with Detective Talt at that time? A. I just explained to him kind of briefly what happened. That Mr that he didn't want to get handcuffed, that he was fighting us.	2 3 4	Q. Detective Talt	Newton Detective Talt drove the vehicle. red him in a police vehicle. At that time do you know where
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3 4 5 6 7 8	Newton you have with Detective Talt at that time? A. I just explained to him kind of briefly what happened. That Mr that he didn't want to get handcuffed, that he was fighting us. Q. Did you have any conversations with Detective Talt regarding the drugs that	2 3 4 5 6	Q. Detective Talt	Newton Detective Talt drove the vehicle. red him in a police vehicle. At that time do you know where t's vehicle was? It was at the scene.
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3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 23 24 25	Newton you have with Detective Talt at that time? A. I just explained to him kind of briefly what happened. That Mr that he didn't want to get handcuffed, that he was fighting us. Q. Did you have any conversations with Detective Talt regarding the drugs that were found? A. I don't recall if I did or didn't. Q. With respect to the drugs that you were found at the scene, where was that item placed? A. Where was it placed? Q. Yes. A. What do you mean? Eventually it went to the lab. Q. Who transported it from the scene to the lab? A. I did. Q. At the time that you were MR. CALLISTE: Withdrawn.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	And I follow Q. Detective Talt A. Q. there? A. Q. ivehicle was tr Precinct? A. ivehicle was tr Precinct? A. ivent back to Q. Detective Talt recall? A. it was about. Q. conversations	Newton Detective Talt drove the vehicle. red him in a police vehicle. At that time do you know where t's vehicle was? It was at the scene. Detective Talt left his vehicle Yes, he did. On the side of the parkway? Yes, he did. Now, what happened after the ansported back to the Third Detective Talt got in my vehicle, and we o get his vehicle. Did you have any discussions with during this time that you Ne talked. But I don't know what

gurney?

Q.

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23

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As you sit here today, have you

ever had any discussions with any of the

officers as to how Mr. Lazo ended up on a

22

23

24

25

this distress?

A.

Q.

Yes.

in Mr. Lazo's presence at the time that he had

Which officers were that?

precinct?

Α.

I don't --

MR. DUNNE: Objection to the last

23

24

25

23

24

25

you saw officers running with the

defibrillator machine to the point where

Mr. Lazo was being carried out on a gurney,

What discussions did you have

with Detective Koerber? 16

I explained to him what had Α. 17 happened. That we had a roll around with 18

Mr. Lazo, and that he had drugs on him. 19

Was this before or after the 20 distress of Mr. Lazo occurred?

Α. Before. 22

Q. What, if anything, did Detective 23

Koerber say to you? 24

He didn't say anything. He said Α. 25

16

To Southside Hospital. Α.

Q. Do you know that for sure? 17

Α. 18 Yes.

> Q. How do you know?

Α. Because I know he was brought to 20

Southside Hospital. 21

> Q. How do you know that?

Α. Because I know he was. 23

24 Q. Sir, who told you that Mr. Lazo

was brought to Southside Hospital? 25

21

19

23

24

25

Α.

Q.

No.

have to go to the hospital?

Did you as an officer being

involved in a use of force against Mr. Lazo

22

23

24

25

Α.

back to the precinct.

I still had to be treated. So I

stayed at the hospital. After that I went

When you got back to the

picture?

21

22

23

24

25

Q.

Α.

Q.

No.

Do you know why that was taken?

Do you know who took that

Crime Scene officer.

21

22

23

24

A.

Q.

Again, it would have been the

Do you know if any other officers

same picture of me standing up. There was .

close up of those injuries I don't believe.

involved, like, for example, Sgt. Scimone, do

1

2

6

10

11

GONZALEZ -V- COUNTY OF SUFFOLK DET. JOHN NEWTO.

161

1 Newton you know Sgt. Scimone had to go to the 2 3 hospital?

Α. He was treated at the hospital, yes.

> Q. Was that at the same time as you?

Α.

8 Q. Do you know what Sgt. Scimone was

treated for? 9

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Α. No.

Q. With respect to Officer Judge, do you know if Officer Judge had to go to the hospital?

14 A. Yes, he did.

Q. Now, do you know what precinct 15 Officer Judge works out of? 16

> Α. The Third Precinct.

Q. Do you know when Officer Judge 18 went to the hospital in relation to you, to 19 20 when you went?

Α. I believe he went to the hospital from the scene.

Q. Do you know if -- do you know what Officer Judge was being treated for?

> Α. No.

> > 162

1 Newton 2 Q. Sir, are there surveillance cameras at the Third? 3

Α. Yes.

Q. Were those surveillance cameras on on April 12, 2008?

A. 7 Yes.

8 Q. Where are those surveillance cameras situated within the precinct, if you know? 10

11 Α. They have cameras in the parking lot. 12

Q. Anywhere else in the precinct?

Α. 14 I believe there are other locations. I just don't know exactly where 15 they are. 16

17 Q. Are there cameras in the interview rooms, as far as you know? 18

> A. No.

Q. With respect to the cameras of the parking lot, the cameras in the parking lot, do you know what areas of the parking lot those cameras are directed towards?

24 I believe they show the parking lot itself where cars would be parked. Maybe Newton

3 Q. Have you ever seen any surveillance video of Mr. Lazo from anywhere 4

5 taken from the Third Precinct?

entrance to the front door.

A. No.

Q. 7 If Mr. Lazo was brought through

8 the front entrance of the Third, would that be

9 depicted on the surveillance video?

> Α. I don't believe so.

MR. DUNNE: Off the record.

12 (Discussion off the record.)

Q. 13 Have you ever seen any photos of

14 Mr. Lazo taken after he was arrested?

15 Α. Yes.

Q. 16 When did you first see those

17 photos?

18 Α. The trial. The deposition prep

back in January. 19

20 Q. Those photos were depictions of

21 Mr. Lazo?

22 Α. Yes.

23 Q. Do you know, those pictures that

you were referring to, who took those 24

25 pictures?

1

5

164

163

Newton

2 A. Crime Scene.

Q. 3 Where were those pictures taken,

4 if you know?

> Α. I believe it was at Southside

6 Hospital.

7 Q. In those pictures -- at the time

those pictures were taken of Mr. Lazo, was 8

Mr. Lazo alive, or was he not alive? 9

10 Α. I believe he had already expired.

11 Q. Have you seen pictures of

12 Mr. Lazo following the arrest where he was 13

alive? 14

A. No.

Q. 15 Do you know if mug shots were taken of Mr. Lazo before the episode? 16

17 A. They were not.

Q. 18 Do you know if Mr. Lazo was fingerprinted before the distress happened? 19

> Α. He was not.

21 Q. So, are you aware as to whether 22 any sort of processing of Mr. Lazo had

occurred before his distress occurred? 23

As far as his arrest processing, 24 Α. 25 there was none done.

Q.

Α.

Q.

Α.

Williams.

Of Force Report?

Use Of Force Report?

No.

Do you know who prepared that Use

I believe it was Lieutenant

Did you ever prepare yourself a

19

20

21

22

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Α.

I don't know.

Q.

They responded to the precinct

Do you know what their purpose

I guess at some point in time

the night of the incident. At whose request,

was for responding to the precinct?

they were going to pick up an Internal

GON		Filed 0	1/09/19 P	age 158 of 286 PageID #: 2179	
1				DET. JOHN NEWTO	
1	169 Newton	į		171	
2			1	Newton	
3	_		2 Q.	Do you know, to this day, what	
	, , ,	1		usion was?	
	incident? Was it regarding the arrest, or was	4		No.	
6	it regarding the death of the detainee?	5		Were you ever told what the	
7	a mount only broadly bottle	6			
8	,	7	5 25	No.	
9	With Contest of the Michael Cavity	8		at some point?	
10	There you interviewed pursuant	9		No.	
	to by Internal Affairs?	10		Do you care what the conclusion	
11	A. Verbally, no.	11			
12	the state of the s	12		MR. DUNNE: Object to the form of	
13	interviewed by Internal Affairs?	13	the c	question.	
14	A. If you consider a written	14	Q.	Does it matter to you?	
15	document as an interview, I was given a set of	15	A.	Sure, it matters to me.	
16	questions that I had to answer.	16	Q.	Sir, during your employment with	
17	Q. After you prepared the answers to	17	the Suffolk	County Police Department, have you	
18	those questions, was there ever any follow-up,	18		the subject of any other Internal	
19	as far as you know, by Internal Affairs to	19	Affairs' inve	estigations?	
20	interview you personally?	20	A.	Yes, I have.	
21	A. No.	21	Q.	How many approximately?	
22	Q. Did you ever speak to anyone over	22	Α.	I don't know.	
23	the phone or by some other method regarding	23	Q.	More than five?	
24	what you placed in your written report?	24			
25	A. No.	25	, , , , , , , , , , , , , , , , , , , ,		
J	170			172	
1	Newton	1		Newton	
2	Q. Did you ever provide any	2	involved i	n cases with Internal Affairs. I	
3	documents or supply any documents, other than	3	just canno	ot tell you how many.	
4	your written report, to Internal Affairs	4	Q.	Are you aware as to whether you	
5	pursuant to their investigation?	5	have ever b	peen	
6	A. No.	6		MR. CALLISTE: Withdrawn.	
7	Q. Have you ever been asked to do	7	Q.	As a result of any Internal	
8	anything at all pursuant to any investigation	8	Affairs' inve	estigations that were opened up	
9	that was being conducted into the arrest	9		ou, have you ever been disciplined	
10	and/or the death of Mr. Lazo?	10	as a result o	of those?	
11 12	A. By who?	11	A.	Yes, I have.	
12	Q. By Internal Affairs.	12	Q.	Do you recall what under what	
13	A. I had to write an internal	13		ces you have been disciplined	
14	correspondence regarding those questions that	14	pursuant to	an Internal Affairs'	
15	were written to me.	15	investigation	n?	
16	Q. Besides that internal	16	Α.	I was disciplined regarding an	
17	correspondence that they asked you to submit,	17	improper e	entry or wrong entry on my memo book.	
18	was there arrest paperwork or any other	18	Q.	When you say "improper entry," do	
	documents that were prepared pertaining to the	19	you mean in	nproper writing that you placed in	
19	arrest of Mr. Lazo that day?	20	your own m	· ·	
20	•	21	Α.	I shouldn't say improper. It was	
20	A. No.				
20)		22	a VIN num	ber that wasn't documented correctly.	
20 2 23	conclusion or outcome to that investigation	1	a VIN numi Q.	ber that wasn't documented correctly. Do you recall what year you were	
20 2 23		22		Do you recall what year you were	

23 to recertifications of your gun training,

stuff like that. I'm talking about as a 24

result of an Internal Affairs' investigation,

174

Newton 1

have you ever been sent back to the Academy 2

for retraining in any specific areas? 3

Α. 4 No.

> Q. Besides qualifying and things

6 like that?

5

16

Α. 7 Correct.

MR. CALLISTE: Let's take a 8

9 break.

(Recess taken.) 10

Sir, with respect to the death of Q. 11

Mr. Lazo, do you know if that death was being 12

investigated by any agency or departments, law 13

enforcement departments that were not police 14

agencies, any outside agencies? 15

Α. You mean besides Suffolk County?

Q. Besides Suffolk County Police 17

18 Department.

19 Α. No.

Q. 20 Do you know if the District

Attorney's Office was investigating that --21

Α. 22

Q. -- the death of Mr. Lazo? 23

Α. 24 Yes.

How do you know that? 25 Q.

documentation to them? 23

A. 24 No.

Q. 25 Did you ever have any

176

1 Newton

conversations with your superiors or -- with

your superiors regarding the Grand Jury 3

presentment? 4

5

17

18

21

24

25

Α. What do you mean?

Q. Did you ever have any discussions 6

with anyone in the police department regarding

the fact that a Grand Jury was convened in

9 this matter?

Α. I knew a Grand Jury was convened. 10

The Homicide Unit told me that we were going 11

to have to go to Grand Jury. 12

13 Q. Did you ever have any

discussions, besides being told that you have 14

to go to the Grand Jury, about that Grand Jury 15

proceeding? 16

A.

Q. Were you prepped for your

testimony at the Grand Jury before you went to 19

the Grand Jury? 20

> A. No.

Q. Did you speak to any district 22

23 attorneys prior to going to the Grand Jury?

> A. No.

Q. Did you speak with any of the

Case 2:09-cv-01023-ST Document 70-4 Filed 01/09/19 Page 160 of 286 PageID #: 2181 DET. JOHN NEWTON 177 179 1 Newton 1 Newton officers prior to going to the Grand Jury? 2 2 Q. It was only after the Grand Jury 3 Α. No. 3 had concluded that Internal Affairs asked you Q. Do you know if the Suffolk County to submit the 42 to them? Police Department has a legal bureau? 5 MR. CALLISTE: Objection. 6 Α. Yes, they do. Α. Correct. 6 7 Q. Did you ever speak to anyone from 7 Q. Now, Counsel had earlier asked 8 the Legal Department? you about searching that particular vehicle 9 A. No. while it was on the side of the road. 9 10 Q. Did you give testimony in the 10 Is there any particular reason Grand Jury? 11 why you were not necessarily focused on making 11 12 Α. Yes, I did. 12 an arrest that night? 13 Q. At that time, sir, do you know if At that point in time prior to 13 Α. 14 your name -- do you know if you were one of 14 Mr. Lazo's striking me, there was no reason the individuals being investigated by the 15 for an arrest. Grand Jury at that point? 16 Q. What was the basis for the stop 16 A. Yes. 17 at that point? 17 Q. Were you ever served with 18 18 Α. The basis for the stop was to 19 charges? 19 help us with the investigation of who was Α. 20 No. 20 dealing drugs out of that Cadillac. We were Q. 21 Were you ever served with a 21 able to ascertain the name, and address, the 22 complaint, a felony complaint? type of Cadillac to further our investigation. 22 23 Α. No. 23 Q. Under what circumstances would Q. 24 Have you ever seen a felony 24 Mr. Lazo have been arrested on the side of the complaint in this matter regarding Mr. Lazo or 25 road? 178 180 1 Newton 1 Newton 2 the death of Mr. Lazo? Α. If we had recovered some type of 2 3 Α. 3 contraband, he would have been arrested, or 4 MR. CALLISTE: I have no further some other -- like a suspended license or 4 5 auestions. 5 something like that. Other than that he 6 MR. DUNNE: Just a few wouldn't have been arrested. 6 7 follow-ups. 7 At any point while you were on **EXAMINATION BY** 8 8 the side of the road, did Sgt. Scimone ever MR. DUNNE: 9 indicate to you that after he had shown the 9 10 Q. Detective, let me ask you: With flashlight in the car or looked around that he 10 respect to Counsel's last line of questions 11 had found anything? 11 12 with respect to that Grand Jury presentation, 12 Α. No, he didn't. 13 you, in fact, were a subject of that Grand 13 Q. At that point, since no Jury presentation, correct? 14 14 contraband was found, had there not been a Α. 15 Yes. confrontation, what would have happened? 15 Q. 16 You had to testify with a waiver-Α. 16 He could have received tickets of immunity, correct? 17 and moved on. Or we could have just told him 17 Α. Correct. 18 why he was stopped and moved on without 18

45 of 47 sheets

Q.

Grand Jury investigation?

After you gave a supplementary

report on the night of the incident, you were

not asked anything about this case by virtue

of the fact that you were a subject of that

19

20

23

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getting tickets.

further.

BY MR. CALLISTE:

that a crime, sir?

Q.

FURTHER EXAMINATION

MR. DUNNE: I have nothing

Is a hand-to-hand drug sale, is

Case 2:09-cv-01023-ST Document 70-4 Filed 01/09/19 Page 161 of 286 PageID #: 2182 DET. JOHN NEWTON GONZALEZ -V- COUNTY OF SUFFOLK 183 181 Newton Newton 1 1 I'm saying it now. It was an apparent 2 A. Yes, it is. 2 hand-to-hand drug transaction. Q. That is an arrestable offense, 3 3 MR. CALLISTE: I have no further 4 4 correct? 5 auestions. Α. If you know it is an obvious 5 FURTHER EXAMINATION hand-to-hand drug transaction. You would need 6 6 more than just an observation. You would need 7 BY MR. DUNNE: 7 Q. some other party. You would need drugs is 8 Detective Newton, do you have an 8 investigative function in the unit that you probably the second part of that hand-to-hand. 9 9 were assigned to on April 12th of 2008? At that point -- well, you 10 10 Α. Yes. 11 11 indicated that Officer -- Detective Talt --Q. What would some of your you indicated that an actual hand-to-hand was 12 12 investigative functions entail? 13 observed? 13 Again, we would be out patrolling 14 Α. I said an apparent hand-to-hand. 14 for street level drug sales. Arrest people Q. I will let the record speak for 15 15 16 with drugs at known drug locations. itself. 16 17 Q. Do you ever conduct Sir, you did indicate -- also, 17 investigations that go beyond just one you indicated earlier that one of the purposes 18 18 individual dealing drugs? of the stop was because a hand-to-hand 19 19 20 Α. Yes. transaction was actually observed? 20 Q. 21 Under what circumstances would Α. An apparent hand-to-hand 21 transaction. 22 you do that? 22 23 Α. Again, if we saw what we thought Q. Was it an apparent hand-to-hand 23 24 was a drug deal or hand-to-hand, we don't transaction, or was it an actual hand-to-hand 24 25 necessarily make an arrest. We try to get to 25 transaction? 184 182 1 Newton Newton 1 the person that is dealing to that person. It There was a hand-to-hand. Was it 2 Α. is just the beginning of a drug investigation. drugs or something else? We couldn't tell. 3 To your knowledge, were any drugs But it was an apparent hand-to-hand where 4 4 in plain view of the vehicle that Mr. Lazo was something was exchanged. Now, I can't explain 5 5 driving and that was stopped at the side of exactly what Detective Talt saw, whether he 6 6 7 the road on April 12, 2008? saw money or not. But it was an apparent 7 8 hand-to-hand transaction. No drugs were 8 Α. No, there was not. MR. CALLISTE: Objection. 9 9 recovered at any time. Sir, you indicated that Detective No, there was not. 10 Α. 10 11 MR. CALLISTE: No further Talt passed you by and gave you the thumbs 11 12 up -questions. 12 (Time noted: 2:15 p.m.) 13 13 Α. Correct. Q. 14 14 -- indicating that he did see 15 15 something go down, correct? A. 16 16 Correct. 17 Q. At that point in time you formed 17 a belief that there was a hand-to-hand 18 18 19 transaction? 19 20 20 Α. Apparent hand-to-hand transaction, correct. 21 21 22 Q. Sir, but earlier when you 22 23 testified, you didn't say it was apparent, you 23 24 said it was actual, correct? 24

25

Α.

I believe I did. If I didn't,

```
DET. JOHN NEWTON
                                                185
  1
                         Newton
               ACKNOWLEDGMENT
  2
                                                                                                              167
  3
     STATE OF NEW YORK )
                                                                                     CEPTIFICATE
                                                                           STATE OF NEW YORK ;
     COUNTY OF
                                                                                          35.;
  6
                                                                           COUNTY OF MASSAU
  7
              I, DET. JOHN NEWTON, hereby certify
    that I have read the transcript of my
                                                                                     I, FLORENCE SYSKROT, a Notary
  9
     testimony taken under oath in my deposition of
                                                                                Fublic within and for the State of New
     January 6, 2011; that the transcript is a
                                                                                York, so nereby sertify:
 11 true, complete and correct record of my
                                                                     16
                                                                                     That DET. JOHN NEWTON, the
     testimony, and that the answers on the record
                                                                                witness whose deposition is hereinbefore
 13
     as given by me are true and correct.
                                                                     12
                                                                                set forth, was duly sworn by me and that
 14
                                                                               such deposition is a true record of the
 15
                                                                     14
                                                                                testimony given by such witness.
 16
                                                                                     I further certify that I am not
 17
                          DET, JOHN NEWTON
                                                                     16
                                                                               related to any of the parties to this
 18
                                                                     17
                                                                               action by blood or marriage; and that I
 19
                                                                     18
                                                                               am in no way interested in the outcome
 20
     Signed and subscribed to before
                                                                     19
                                                                               of this matter.
     me, this
                                                                     20
                        day
                                                                                     IN WITHESS WHEREOF, I have
21
     of
                        , 2011.
                                                                     21
                                                                               hereunto set my hand this 24th day of
                                                                     22
                                                                               January, 2016.
22
                                                                     23
                                                                     24
23
                                                                     25
                                                                                              FLORENCE SYSKROT
     Notary Public, State of New York
24
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EXHIBIT Q

)

GONZALEZ -V- COUNY OF SUFFOLK CHRISTOPHER TALT- 5/3/11

CONDENSED TRANSCRIPT AND CONCORDANCE PREPARED BY:

REALTIME REPORTING, INC. 124 East Main Street Suite 202 Babylon, New York 11702 Phone: (516) 938-4000 Fax: (631) 983-8938

2 of 45 sheets

GONZALEZ -V- COUNTY OF SUFFOLK CHRISTOPHER TALT 13 15 Talt 1 1 Talt Q. Did you have a partner during 2 months. That was through summer months 2 that patrol? 3 3 and part of the fail. Then I was -- the Α. Yes. 4 4 foot post had ended and I was reassigned Q. Who was your partner? 5 5 to patrol. Α. Detective Wisely, W-I-S-E-L-Y. 6 6 , Q. Is it fair to say it's a At the time he was a police officer. 7 7 seasonal type of post? 8 Q. Did you have any other 8 I wouldn't say it was a partners during the seven to nine years? 9 9 seasonal. It was just a spot that was not Α. Police Officer Joseph White, 10 filled at the time. The real reason why I 10 police officer Rocchio, R-O-C-C-H-I-O. 11 11 went there was because my field training Q. Any others? 12 12 was over earlier than other officers, so Α. Police Officer O'Sullivan. 13 13 it was a manpower issue where the Q. 14 Any others? 14 department used me to fill that spot. Α. I believe that is it. 15 15 Q. For approximately how long Q. 16 Approximately what year did 16 were you with the COPE unit from 2001? you end being --17 17 Approximately a year and a 18 MR. GERMANO: Withdrawn. half. 18 Q. 19 Where were you assigned after 19 Q. Did you have any partners? 20 you were a patrol officer? Α. 20 Yes. I was partners with I was reassigned in the end of 21 Officer Wisely again, Officer Bertucci, I 21 2001, I was transferred to the COPE unit. 22 22 believe that was it. Any particular reason you were 23 23 Were you in a vehicle during 24 reassigned to the COPE unit? 24 your assignment with the COPE unit? Α. 25 No. 25 I was in a vehicle. I walked 14 16 Talt 1 1 Talt Were you ever made aware of 2 2 foot posts. I rode a bicycle. 3 any reason for your reassignment to the Were you ever in an unmarked 3 COPE unit? 4 4 vehicle during your assignment with the Α. 5 No. COPE unit? 5 6 Q. Did you ever ask anybody, any 6 Occasionally, but not in a 7 supervisor or any other officer employed 7 permanent way. There were some nights 8 by the Suffolk County Police Department 8 that I was in an unmarked vehicle. why you were being reassigned? 9 9 Being with the COPE unit, what I applied to be assigned to 10 would lead you to be using in an unmarked 10 the COPE unit. I worked in patrol and 11 11 police vehicle? 12 then there were openings in the COPE unit. 12 When I was with the COPE unit 13 I asked to be transferred there. 13 I was involved in community complaints and 14 Q. Any reason why you were 14 if the community complaint warranted us to reassigned from the COPE unit originally 15 be in an unmarked vehicle, then our 15 16 to patroi? 16 supervisor would put us in one. It was 17 Α. I was a New York City police 17 not a permanent thing. It was as long as officer prior to being hired by the 18 18 it took until the problem was corrected. Suffolk County Police Department. Because 19 19 After the year and a half with of that, my field training was shortened. 20 the COPE unit, where were you assigned? 20 When I graduated the academy, completed 21 21 A. Third precinct gang unit. 22 the field training, myself, being that I 22 Q. What were your duties and was done earlier than the other officers 23 responsibilities with the gang unit? 23 in the field training, I manned the foot 24 24 Α. I gave classes to the public,

25

post. I did that, like I said, for six

)

25

to schools, about gang awareness. I

24

25

Q.

When?

We take classes during, since

felony drug arrests made by uniformed

Once again reference drug activity in the

officers, and handle community complaints.

23

24

25

you assigned?

22

23

24

25

)

I was assigned to the New York

City Transit Police Department District

22

23

24

25

Until I was hired by the

Suffolk County Police Department, which

Do you recall if you were

was approximately two years.

		Case 2	::09-cv-01023-ST Document 70-4 File	d 01/0)9/19 Pa	age 187 of 286 PageID #: 2208
7		LEZ -V- COUN	ry of suffolk	_		CHRISTOPHER TAL
•			25 Tolt			27
	1	+6-0 :	Talt	1	_	Talt
	2		f you received any civilian	2	Q.	What other positions?
	1,		ints, or were named in any civilian	3	Α.	I worked at a food store,
			ints during your employment with the	4	_	ng shelves.
	5		or the New York City Transit	5	Q.	What year was that?
	6	Depart		6	Α.	It was in high school and out
	7		MR. DUNNE: Note my	7		school.
	8		objection for the record. Go	8	Q.	What year did you work for the
	9		ahead and answer the best that	9	parks?	
	10	_	you can.	10	Α.	Right out of high school.
	11	Α.	Yes, I was.	11	Q.	Any other jobs?
	12	Q.	How many complaints?	12	Α.	Yes, I worked for Wheatly
	13	Α.	I don't recall.	13	Hills Go	olf Club.
_	14	Q.	Do you recall if you were	14	Q.	In what capacity?
)	15		ally named as the subject or were	15	A.	The locker room.
	16		tions named in some other way?	16	Q.	Did you receive your diploma
	17	Α.	I don't recall.	17		igh school?
	18	Q.	Do you recall the outcome of	18	A.	Yes.
	19	•	:hose complaints?	19	Q.	Did you go to college?
	20	Α.	No.	20	Α.	Yes.
	21	Q.	Do you recall if you were the	21	Q.	When did you go to college?
	22		in more than five complaints or less	22	Α.	For two years after high
	23		e complaints?	23	school.	
	24	Α.	Less than.	24	Q.	What college did you go to?
		<u>Q.</u>	More than one complaint?	25	Α	Nassau Community.
:			26 Talt			28
	1 2	Α.	I don't recall.	1	0	Talt
	_	Q.	At this time, do you have any	2	Q.	Did you receive a degree?
	3 4		tion of the sum and substance of	3	A. Q.	No, I did not.
	5		omplaints?	5		Approximately how many credits
ı	6	A.	No.	6	A.	receive? Sixty.
	7	Q.	Prior to being employed by the	7	Q.	Did you have a particular
	8		what jobs did you hold if any?	8		uring those two years?
,	9	Α.	I worked for Nassau County	9	A.	Criminal justice.
1	10		ping maintenance, cutting lawns,	10	Q.	So you never received an
	11		g garbage.	11	=	tes degree or anything like that?
	12	Q.	Did you go to high school?	12	A,	I was two classes shy.
	13	Ä.	Yes.	13	Q.	Do you have any military
	14	Q.	Where did you go to high	14	experie	· · · · · · · · · · · · · · · · · · ·
1	15	school?	, , , , , , , , , , , , , , , , , , ,	15	Α.	No, I don't.
	16	A.	Mineola High School.	16	Q.	During your employment with
1	17	Q.	Did you work at the parks	17	-	folk County Police Department, have
	18	during y	our high school years?	18		er been a subject of an Internal
	19	Α.	No.	19		Bureau investigation?
1		Q.	It was a position after high	20		MR. DUNNE: Note my
}		school?	· · · · · · · · · · · · · · · · · · ·	21		objection to the line of
	22	A.	Yes.	22		questioning. Go ahead,
	23		Did you hold any other	23		Detective, and answer that the
$\ $	24		after high school?	24		best that you can.
L.,	25	Α.	Yes.	25	Α.	Yes.
7	of 45 si	heets 	Page 25 to	28 of 17	9	05/24/2011 02:08:24 PM

25

Q.

As a result of any of the --

MR. GERMANO: Withdrawn.

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vehicle.

allegations. Again, my vehicle struck his

		Case 2	2:09-cv-01023-ST Document 70-4 Fil	ed 01/0	09/19 Page 190 of 286 PageID #: 2211
)	GONZA	LEZ -V- COUNT	ry of suffolk	· 1	CHRISTOPHER TAL
			Talt		39
	1	_	Talt	1	Talt
	2	Q. A.	Were you driving?	2	medical treatment.
	3		I was driving a marked police	3	Q. The other person involved in
	4	car. Q .	Whore did your vehicle come	4	the accident, did he or she receive
	5	- • -	Where did your vehicle come ntact with the driver of the other	5	injuries?
	6	vehicle		6	A. Yes.
	7	A.	The driver's side of his	7	Q. What kind of injuries did he
	8	vehicle	** - * ** - * ** - * • • • • • • • • • •	8	or she receive?
	9	Q.		9	A. I believe back and neck
	10	time?	Were both cars moving at that	10	injuries, and he was also transported to
	11 12	A.	Yes.	11	Southside Hospital for treatment.
	13	Q.	Where were you driving	12	Q. By way of ambulance?A. Yes.
			ately before the accident?	13	
3	14	A.	Central Islip.	14	Q. The second lawsuit that you
	16	Q.	For what reason were you	15	were involved in as a defendant, when was that?
	17	•	in Central Islip?	16 17	A. Approximately 2000, 2001.
	18	A.	I was on patrol and I was	18	Q. What was the sum and substance
	19		ding to the assist of another police	19	of that complaint naming you as a
	20	officer.	aring to the assist of another ponce	20	defendant?
	21	Q.	Were your sirens on?	21	A. Again, there was another
	22	Ã.	Yes.	22	officer that was involved in the arrest of
	23	Q.	Were your lights on?	23	a subject. I don't recall what that was
	24	Ã.	Yes.	24	for. I was working that day and I was
	25	Q.	What intersection did this	25	named, but again the arrest processing wa
			38		40
	1		Talt	1	Talt
	2	occur at	:?	2	in the uniform squad room where at the 3rd
	3	A.	I know I was on Willow Street	3	Precinct prisoners are processed for their
	4	in Centr	al Islip, and I was either at the	4	arrest. There were multiple officers
	5	intersec	tion of Wilson or Ferndale	5	named in it. I don't recall what why I
	6	Bouleva	rd. I don't recall which	6	was actually even named.
	7	intersec	tion, one or the other.	7	Q. Do you recall the officer that
	8	Q.	Was anybody else in the	8	arrested the subject?
)	9	_	with you at the time?	9	A. No.
	10	Α.	Yes.	10	Q. Do you recall, was that a
	11	Q.	Who was that?	11	complaint of false arrest or something
į	12	Α.	Officer Rocchio,	12	else?
i	13		C-H-I-O. He was the front passenger	13	A. I believe it was false arrest.
	14	in my ve		14	That was one of the complaints.
	15	Q.	Was there anybody else in the	15	Q. Any other complaints?
	16	vehicle?		16	A. Yes. There was a, I believe,
	17	Α.	No.	17	it was like a discourteous complaint, but
ľ	18	Q.	Did you receive an injury?	18	that is as much as I remember about that.
	19	Α.	Minor injuries.	19	Q. What is a discourteous
	20	Q.	Did you receive medical	20	complaint?
	21	treatme		21	A. Whether is was verbal, someo
	22	Α.	Yes.	22	said something that offended the party.
	23	Q.	How about your passenger, did	23	That is as much as I recall about that
	24	he? ∧	Voc. mineu inferries as a tra	24	incident.
ļ	25	A.	Yes, minor injuries, again	25	Q. Were you ever deposed?
·	1717417	11 1 DZ:R8:74 1	PM Page 37 to	ก 4น กา 17	9 10 of 45 sheets

A.

I don't believe so.

know the race or ethnicity of the

With respect to the three

lawsuits that we just went through, do you

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Α.

With respect to complaints of

excessive force, do you know the process

used in investigating those claims?

The same.

25

of mistreatment?

I don't recall the break down

Α.

24

25

Α.

Q.

No.

The second Hispanic, what was

		Case 2:09-cv-01023-ST Document 70-4 Fi	led 01	/09/19 Page 194 of 286 PageID #: 2215
7	GO GO	NZALEZ -V- COUNTY OF SUFFOLK	 -	CHRISTOPHER TAL
		53 Talt		55
	- 1	his or her name?	. 1	Talt
		A. Edwin Caballero,	2	elbow.
	ı	C-A-B-A-L-L-E-R-O.	3	Q. That is the most recent
		Q. Do you know Mr. Caballero's	5	action?
		1 . 1	6	A. That is the most recent one.Q. Which is still pending today.
			7	· · · · · · · · · · · · · · · · · · ·
			8	correct? A. Correct.
	9		9	
	10		10	Q. Do you know how to spell Mr. Motta's last name?
	11		11	A. I believe it's M-O-T-T-A. I
	12		12	am not positive.
	13		13	Q. What is his ethnicity?
	14	A. The one with myself and	14	A. He is he Hispanic.
)	15		15	Q. Do you know his first name?
	16	Q. That was the lawsuit that	16	A. I don't recall.
	17	settled for \$5,000?	17	Q. Who used the asp against
	18	A. Correct.	18	Mr. Motta?
	19	= 131 411/ 2027 2132	19	A. Officer Corbett,
	20	MR. GERMANO: Withdrawn.	20	Q. Did you see him use the asp?
	21	Q. Was there any other individual	21	A. Yes.
	22	named as a plaintiff or a complainant in	22	Q. Where did you see him strike
	23	that action?	23	Mr. Motta with the asp, in terms of on
	24	A. Not to my recollection.	24	Mr. Motta's body?
	25		25	A. I believe it was his back.
	1	54 Talt		56
	2	Affairs complaints naming you, how many of	1	Talt
	3	those complainants were African American?	3	Q. How many times did
	4	A. I don't recall.	4	MR. GERMANO: Withdrawn. Q. Is Officer Corbett a police
	5	Q. Do you recall how many of	5	Q. Is Officer Corbett a police officer, police officer, detective
	6	those complainants were black?	6	A. Police officer.
	7	A. No.	7	Q. How many times did Officer
	8	Q. Do you recall any of the	8	Corbett strike Mr. Motta that you saw?
)	9	injuries received by or alleged to be	9	A. Approximately two.
	10	received by these complainants with	10	Q. Did Officer Corbett strike
	11	respect to your actions in these 15 to 20	11	Mr. Motta more than two times that you
	12	IAB complaints?	12	didn't see?
	13	A. Mr. Rivera, with the motor	13	MR. DUNNE: How would he
	14	vehicle accident I believe was back and	14	know?
ı	15	neck. Mr. Caballero had abrasions, he had	15	MR. GERMANO: Withdrawn.
	16	bit me. He bit my finger, I couldn't get	16	Q. Did you learn at any point in
- [17	my finger out of his mouth so I struck him	17	time whether Mr. Motta claimed officer
	18	in the face to dislodge my finger that he	18	Corbett struck him more than two times?
	19	was chewing on, so he had a mouth injury.	19	A. Officer Corbett I observed
	20	I think the last the	20	Officer Corbett strike Mr. Motta and it
	21 22	complaint that we spoke about with Officer	21	was approximately two times. Again ar.
	23	Corbett. I believe his last name is	22	then he was not struck, he was in my
- 1	23 24	Motta. He had a couple of lines, red lines, from being struck with the asp on	23	presence the whole time. He was not
1	25	his body and abrasions, I believe, on his	24	struck again later or before me witnessing
ᆫ		72011 02:08:24 PM Page 53 to	25 56 of 17	that occurrence.
		rage 55 to	70 OI T\	9 14 of 45 sheets

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22

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24

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surveillance.

on him that you noticed?

No.

Did Mr. Motta have any weapon

Was Mr. Motta charged with a

Q.

Α.

Q.

crime?

)

20

21

22

23

24

25

some other broken bone?

I don't recall.

Do you recall if any

have received, stitches as a result of

complainant ever received, or alleged to

Α.

your actions?

		Case 2:09-cv-01023-S	T Document 70-4 File	ed 01/	/09/19 Page 196 of 286 PageID #: 2217
3	GONZA	LEZ -V- COUNTY OF SUFFOLK			CHRISTOPHER TAL
	١.	T -14	61		63
	1 1	Talt		1	Talt
	2		NE: As a result	2	Q. Prior to this deposition, did
	3	of the alleged		3	you review any documents in order to
	4		1ANO: That is	4	prepare for the deposition?
	5	fine.		5	A. A supplementary report that I
	6	A. I don't reca	ll. Again, I said	6	prepared.
	7	lacerations, but stitch		7	Q. How many supplementary reports
	8	Q. Who received	I those	8	did you prepare as a result of
	9	lacerations?		9	subsequent to the death of Kenny Lazo?
	10		ll Edwin Caballero	10	A. I prepared one for the case.
	11	having lacerations, blo	eeding. Again I	11	That is what I reviewed, and then I also,
	12	struck him in the mou	th when he was biting	12	which I didn't review, I prepared internal
	13	my finger, which he w		13	correspondence for Internal Affairs.
_	14		er disciplined as a	14	Q. With respect to the
)	15	result of your actions	with respect to	15	allegations in this case, have you ever
]	16	Edwin Caballero's com	plaints?	16	been questioned to the extent you are
	17	A. No.		17	being questioned today, or to the extent
	18		have to receive	18	that you observed the prior three
ľ	19	additional training as		19	depositions of your colleagues?
	20	complaint lodged agai	nst you?	20	A. No.
	21	A. No.		21	Q. Did you ever have an interview
	22	Q. In any of the	15 to 20	22	with Internal Affairs?
İ	23	complaints, did you ha		23	A. No, I did not.
	24	additional training due	to the complaint	24	Q. Who instructed you to prepare
	25	lodged against you?		25	an internal correspondence?
ŀ			62		64
İ	1	Talt		1	Talt
	2	A. No.		2	MR. DUNNE: To IA?
ı	3	Q. Did all of the :		3	MR. GERMANO: Yes.
	4	complaints involve an	arrest?	4	A. I believe it was Captain, or
	5	A. No.		5	Lieutenant Capalino, I believe.
	6	Q. Approximately	, how many	6	Q. Lieutenant Capalino is a
	7	involved an arrest?		7	lieutenant with Internal Affairs, correct?
	8	A. I don't know	_	8	A. Possibly a captain, I don't
)	9	Q. Do you know i	f there were more	9	recall, but yes he was with Internal
- [10	arrests or no arrests de		10	Affairs.
1	11	allegations that led to		11	Q. Approximately, how many
- 1	12	A. Again, I don'	t know the	12	conversations did you have with Lieutenant
- 1	13	breakdown.	_	13	or Sergeant Capalino?
ı	14	Q. I would like to	turn your	14	A. Lieutenant or Captain
- 1	15	attention to April 12, 2		15	Capalino. Conversations?
- [16 ·-	Do you have a	recollection of	16	Q. Yes, concerning the
	17	the incident involving K	enny Lazo?	17	allegations in the complaint.
	18	A. Yes.		18	A. I don't recall having any
- 1	19	Q. What is your re	ecollection	19	conversations with him.
- 1	20	based upon?		20	Q. In what form did Capalino
- 1	: 1	A. Intelligence t		21	instruct you to prepare and provide
- 1	22	gathered, my own obse	rvations.	22	internal correspondence to IA?
- 1	23	Q. Anything else?		23	A. He sent me a written list of
- 1	24		hat it is based	24	questions that he had for me, and at the
[2	5	on.		25	end of the questions it was noted that if

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squad that night.

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He was the detective assigned to the 3rd

Sergeant Koerber after you learned of

Did you speak to Detective

22

23

24

25

Q.

Detective Portela?

When did you speak to

precinct, sometime after 10:00 o'clock,

When I was back at the

		Case 2	2:09-cv-01023-ST Document 70-4 Fi	led 01/	09/19 Pa	age 198 of 286 PageID #: 2219
GONZALEZ -V- COUNTY OF SUFFOLK						CHRISTOPHER TALT
•			69			71
	1		Talt	1		Talt
	2	10:00	·	2	drafting	g your supplemental report?
	3	Q.	During the same tour?	3	Α.	No.
	4	Α.	Yes.	4	Q.	Did anybody review the
	5	Q.	•	5	supple	mental report after you drafted it?
	6	did you	ı meet with Detective Portela?	6	Α.	Yes.
	7	Α.	In the detective squad room.	7	Q.	Who reviewed it?
	8	Q.	Was anybody else present?	8	Α.	
	9	A.	No.	9	Q.	Who did you provide your
	10	Q.	What was the sum and substance	10	suppler	mentary report to after it was
	11	of your	conversation with Detective	11	comple	ted?
	12	Portela	?	12	A.	Detective Portela.
	13	Α.	He asked me what happened.	13	Q.	When did you supply it to
)	14	And I e	explained to him again my	14	Detecti	ve Portela?
3	15		ations and the information	15	A.	That tour.
	16		ence that I had with reference to	16	Q.	After you supplied Detective
	17		ident. My involvement from the	17	Portela	with the supplementary report,
	18		ing to the end.	18		teractions did you have with him
	19	Q.	For approximately how long,	19	concerr	ning the incident set forth in this
	20	did you	ı meet Detective Portela to relay	20	compla	int?
	21	your pe	erspective?	21	Α.	That was it.
	22	A.	I don't recall exactly.	22	Q.	Did you have any other
	23	Q.	Was it more than 20 minutes?	23	meeting	gs, interviews, conversations, or
	24	A.	It was about that.	24	discuss	ions with any other police
	25	Q.	You gave a detailed account of	0.5		1 0
				25	person	nel after you supplied Detective
			70	25	personr	72
	1		70 Talt	1		72 Talt
	2	your ur	70 Talt nderstanding of the circumstances to	1 2	Portela	72 Talt the supplementary report, aside
		your ur Detecti	70 Talt iderstanding of the circumstances to ve Portela?	1 2 3	Portela from yo	Talt the supplementary report, aside our internal correspondence with IA?
	2 3 4	your ur	70 Talt nderstanding of the circumstances to ve Portela? Yes.	1 2 3 4	Portela from yo A.	Talt the supplementary report, aside our internal correspondence with IA? Police personnel?
	2 3 4 5	your ur Detecti	70 Talt inderstanding of the circumstances to ve Portela? Yes. MR. DUNNE: Object to the	1 2 3 4 5	Portela from yo A. Q.	Talt the supplementary report, aside our internal correspondence with IA? Police personnel? Yes.
	2 3 4 5 6	your ur Detecti	70 Talt Inderstanding of the circumstances to ve Portela? Yes. MR. DUNNE: Object to the word detailed. I don't know	1 2 3 4 5 6	Portela from yo A. Q. A.	Talt the supplementary report, aside our internal correspondence with IA? Police personnel? Yes. No.
	2 3 4 5 6 7	your ur Detecti	70 Talt derstanding of the circumstances to ve Portela? Yes. MR. DUNNE: Object to the word detailed. I don't know what that means. Go ahead and	1 2 3 4 5 6 7	Portela from yo A. Q. A. Q.	Talt the supplementary report, aside our internal correspondence with IA? Police personnel? Yes.
•	2 3 4 5 6 7 8	your ur Detecti A .	70 Talt Iderstanding of the circumstances to ve Portela? Yes. MR. DUNNE: Object to the word detailed. I don't know what that means. Go ahead and answer that if you can.	1 2 3 4 5 6 7 8	Portela from you A. Q. A. Q. else?	Talt the supplementary report, aside our internal correspondence with IA? Police personnel? Yes. No. Same question but with anybody
•	2 3 4 5 6 7 8 9	your ur Detecti A .	Talt Inderstanding of the circumstances to ve Portela? Yes. MR. DUNNE: Object to the word detailed. I don't know what that means. Go ahead and answer that if you can. Yes.	1 2 3 4 5 6 7 8	Portela from yo A. Q. A. Q. else? A.	Talt the supplementary report, aside our internal correspondence with IA? Police personnel? Yes. No. Same question but with anybody Yes.
)	2 3 4 5 6 7 8 9	your ur Detecti A. A. Q.	Talt Inderstanding of the circumstances to ve Portela? Yes. MR. DUNNE: Object to the word detailed. I don't know what that means. Go ahead and answer that if you can. Yes. Did Detective Portela instruct	1 2 3 4 5 6 7 8 9	Portela from you A. Q. A. Q. else? A. Q.	Talt the supplementary report, aside our internal correspondence with IA? Police personnel? Yes. No. Same question but with anybody Yes. Who?
)	2 3 4 5 6 7 8 9 10	your ur Detecti A. A. Q. you to	Talt Inderstanding of the circumstances to ve Portela? Yes. MR. DUNNE: Object to the word detailed. I don't know what that means. Go ahead and answer that if you can. Yes. Did Detective Portela instruct do anything after your meeting,	1 2 3 4 5 6 7 8 9 10	Portela from you A. Q. A. Q. else? A. Q.	Talt the supplementary report, aside our internal correspondence with IA? Police personnel? Yes. No. Same question but with anybody Yes. Who? I met with District Attorney
)	2 3 4 5 6 7 8 9 10 11	your ur Detecti A. A. Q. you to e	Talt inderstanding of the circumstances to ve Portela? Yes. MR. DUNNE: Object to the word detailed. I don't know what that means. Go ahead and answer that if you can. Yes. Did Detective Portela instruct do anything after your meeting, spect to further investigations or	1 2 3 4 5 6 7 8 9 10 11	Portela from you A. Q. A. Q. else? A. Q. A. Bureau	Talt the supplementary report, aside our internal correspondence with IA? Police personnel? Yes. No. Same question but with anybody Yes. Who? I met with District Attorney Chief John Collins. Assistant
)	2 3 4 5 6 7 8 9 10 11 12	your ur Detecti A. Q. you to o with res	Talt inderstanding of the circumstances to ve Portela? Yes. MR. DUNNE: Object to the word detailed. I don't know what that means. Go ahead and answer that if you can. Yes. Did Detective Portela instruct do anything after your meeting, spect to further investigations or g else?	1 2 3 4 5 6 7 8 9 10 11 12	Portela from you A. Q. A. Q. else? A. Q. A. Bureau District	Talt the supplementary report, aside our internal correspondence with IA? Police personnel? Yes. No. Same question but with anybody Yes. Who? I met with District Attorney Chief John Collins. Assistant Attorney Bureau Chief.
)	2 3 4 5 6 7 8 9 10 11 12 13	your ur Detecti A. Q. you to o with res anythin A.	Talt inderstanding of the circumstances to ve Portela? Yes. MR. DUNNE: Object to the word detailed. I don't know what that means. Go ahead and answer that if you can. Yes. Did Detective Portela instruct do anything after your meeting, spect to further investigations or g else? I actually knew on my own that	1 2 3 4 5 6 7 8 9 10 11 12 13	Portela from you A. Q. A. Q. else? A. Q. Bureau District Q.	Talt the supplementary report, aside our internal correspondence with IA? Police personnel? Yes. No. Same question but with anybody Yes. Who? I met with District Attorney Chief John Collins. Assistant Attorney Bureau Chief. When did you meet with
)	2 3 4 5 6 7 8 9 10 11 12 13 14	your un Detecti A. Q. you to o with res anythin A. I was to	Talt inderstanding of the circumstances to ve Portela? Yes. MR. DUNNE: Object to the word detailed. I don't know what that means. Go ahead and answer that if you can. Yes. Did Detective Portela instruct do anything after your meeting, spect to further investigations or g else? I actually knew on my own that o complete a supplementary report	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	Portela from you A. Q. A. Q. else? A. Q. A. Bureau District Q. Mr. Coll	Talt the supplementary report, aside our internal correspondence with IA? Police personnel? Yes. No. Same question but with anybody Yes. Who? I met with District Attorney Chief John Collins. Assistant Attorney Bureau Chief. When did you meet with ins?
)	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	your un Detecti A. A. Q. you to on with resident anythin A. I was to of the in	Talt inderstanding of the circumstances to ve Portela? Yes. MR. DUNNE: Object to the word detailed. I don't know what that means. Go ahead and answer that if you can. Yes. Did Detective Portela instruct do anything after your meeting, spect to further investigations or g else? I actually knew on my own that o complete a supplementary report incident.	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Portela from young A. Q. A. Q. else? A. Q. A. Bureau District Q. Mr. Coll A.	Talt the supplementary report, aside our internal correspondence with IA? Police personnel? Yes. No. Same question but with anybody Yes. Who? I met with District Attorney Chief John Collins. Assistant Attorney Bureau Chief. When did you meet with ins? Before the grand jury.
>	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	your ur Detecti A. A. Q. you to evith resanythin A. I was to of the in Q.	Talt inderstanding of the circumstances to ve Portela? Yes. MR. DUNNE: Object to the word detailed. I don't know what that means. Go ahead and answer that if you can. Yes. Did Detective Portela instruct do anything after your meeting, spect to further investigations or g else? I actually knew on my own that a complete a supplementary report incident. When did you complete the	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Portela from you A. Q. A. Q. else? A. Q. A. Bureau District Q. Mr. Coll A. Q.	Talt the supplementary report, aside our internal correspondence with IA? Police personnel? Yes. No. Same question but with anybody Yes. Who? I met with District Attorney Chief John Collins. Assistant Attorney Bureau Chief. When did you meet with ins? Before the grand jury. When was the grand jury
•	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	your un Detecti A. A. Q. you to on with results anythin A. I was to of the in Q. supplen	Talt inderstanding of the circumstances to ve Portela? Yes. MR. DUNNE: Object to the word detailed. I don't know what that means. Go ahead and answer that if you can. Yes. Did Detective Portela instruct do anything after your meeting, spect to further investigations or g else? I actually knew on my own that a complete a supplementary report incident. When did you complete the mentary report?	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Portela from young A. Q. A. Q. else? A. Q. A. Bureau District Q. Mr. Coll A. Q. convene	Talt the supplementary report, aside our internal correspondence with IA? Police personnel? Yes. No. Same question but with anybody Yes. Who? I met with District Attorney Chief John Collins. Assistant Attorney Bureau Chief. When did you meet with ins? Before the grand jury. When was the grand jury
•	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	your ur Detecti A. A. Q. you to evith resanythin A. I was to of the in Q. supplen A.	Talt inderstanding of the circumstances to ve Portela? Yes. MR. DUNNE: Object to the word detailed. I don't know what that means. Go ahead and answer that if you can. Yes. Did Detective Portela instruct do anything after your meeting, spect to further investigations or g else? I actually knew on my own that a complete a supplementary report incident. When did you complete the	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Portela from you A. Q. A. Q. else? A. Q. A. Bureau District Q. Mr. Coll A. Q. convene A.	Talt the supplementary report, aside our internal correspondence with IA? Police personnel? Yes. No. Same question but with anybody Yes. Who? I met with District Attorney Chief John Collins. Assistant Attorney Bureau Chief. When did you meet with ins? Before the grand jury. When was the grand jury ed? I don't recall.
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- 1	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	your ur Detecti A. A. Q. you to a with research anythin A. I was to of the in Q. supplen A. tour. Q. convers	Talt inderstanding of the circumstances to ve Portela? Yes. MR. DUNNE: Object to the word detailed. I don't know what that means. Go ahead and answer that if you can. Yes. Did Detective Portela instruct do anything after your meeting, spect to further investigations or g else? I actually knew on my own that a complete a supplementary report incident. When did you complete the mentary report? That night during the same That was after your ation and meeting with Detective	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Portela from you A. Q. A. Q. else? A. Q. A. Bureau District Q. Mr. Coll A. Q. convene A. Q. did you grand ju	Talt the supplementary report, aside our internal correspondence with IA? Police personnel? Yes. No. Same question but with anybody Yes. Who? I met with District Attorney Chief John Collins. Assistant Attorney Bureau Chief. When did you meet with ins? Before the grand jury. When was the grand jury. When was the grand jury ed? I don't recall. Approximately, how many times meet with Mr. Collins before the ury? Twice. During your meetings Mr.

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Q.

A.

first meeting.

What was the conversation in

We went everything from the

sum and substance that you had with

Mr. Collins during that second interview?

Did Mr. Collins indicate to

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Q.

Α.

Q.

Α.

Q.

Yes.

Yes.

No.

Was it more than five?

More than ten?

More than twenty?

Case 2:09-cv-01023-ST Document 70-4 Filed 01/09/19 Page 200 of 286 PageID #: 2221) GONZALEZ -V- COUNTY OF SUFFOLK CHRISTOPHER TALT 77 79 1 Tait 1 Talt Q. 2 Approximately, how many Q. In terms of the documents that 2 members from that panel asked you 3 you said were utilized during the 3 questions? 4 presentation, what documents do you reco. 4 Α. I don't recall. I received 5 5 being utilized? questions. I don't remember how many or 6 6 Α. I had a copy of my 7 from who or --7 supplementary report, but I don't recall Q. Did the majority of the 8 8 if I needed to go back to that for the questions come from Mr. Collins or from 9 9 testimony or not. the panel? 10 10 Q. Were any other documents Α. Both. I had a long narrative, 11 11 utilized during the presentation when you detailed speaking of my own recollection 12 were a witness? 12 of the incident without even being 13 Α. 13 Not to my recollection. questioned, and then I also received 14 Q. 14 Do you recall if the autopsy questions from both the grand jury and 15 report was utilized? 15 Mr. Collins. 16 Α. 16 While I was testifying? Q. 17 Were any documents utilized 17 Q. Yes, while you were during this presentation? 18 testifying. 18 Α. 19 Yes. Α. 19 No. Q. 20 Were any videos utilized Q. The photographs that depicted 20 during this presentation? 21 the scene at the precinct and on the road, 21 Α. Photographs. 22 let's split those up. 22 Q. 23 What photographs were used? The scene on the road, what 23 Α. Photographs of evidence 24 did those photographs depict that you can 24 recovered, photographs of the scene. 25 25 recall? 78 80 Talt 1 1 Talt When you say the scene, which Q. 2 I don't recall that part. Α. 2 scene are you speaking of? 3 Do you recall if it was just 3 Actually I believe both the 4 of the landscape of where the incident 4 precinct -- the scene of where the arrest 5 occurred or something else? 5 occurred, and then there were photographs 6 I don't recall. Α. 6 of evidence which were taken at the 3rd 7 Q. Do any of the vehicles that 7 8 Precinct, and I testified to the evidence. 8 were used by the officers who did the 9 What photos of the evidence do stop, and who subdued Mr. Lazo, did any of 9 you recall seeing or utilizing during the 10 those vehicles have cameras? 10 presentation? 11 Α. No. 11 Α. 12 I don't recall. Q. 12 With respect to the photos Q. Did those photographs include 13 that depicted the scene at the precinct, 13 photos of the flashlights used by your 14 what do you recall those photos depicting? 14 colleagues in subduing Mr. Lazo? 15 15 Large amount of drugs, U.S. Α. 16 16 currency, I believe earings, Mr. Lazzo's Q. 17 Did those photographs include 17 earings. Did I say U.S. currency? pictures of any alleged contraband found? 18 18 Q. Yes. Α. 19 19 Α. That is what I recall. Q. 20 Did those photographs include 20 Did those photographs depict 21 pictures of Mr. Lazo's injuries? the room that Mr. Lazo was being detaine. 21 Α. 22 No. 22 when he collapsed? Q. Did those photographs include 23 I don't recall if the photos 23 24 pictures of Mr. Lazo in any way? depicted that, but I gave a detailed 24 Not that I recall. description in my testimony of that room. 25 25 05/24/2011 02:08:24 PM Page 77 to 80 of 179

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Q. After the grand jury presentation, did you have any other meetings, interviews, or conversations with any other people about the matter which is the subject of the complaint?

Again, as I said earlier, I don't recall when the Internal Affairs internal correspondence were completed. I don't know if they were done prior to the grand jury or after. If it was done after, then I would have had that with the Internal Affairs unit.

Q. Anything else other than the Internal Affairs?

Α. No. Are you including Mr. Dunne?

Q. No, I am not including Mr. Dunne.

Α. Then no.

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MR. GERMANO: May we have this marked as Plaintiff's Exhibit 1.

(Document was marked as Plaintiff's Exhibit 1 for

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Talt identification, as of this date.)

Q. Detective Talt, I am placing before you Plaintiff's Exhibit 1. I request you to skim through that document?

Α. (Witness complying).

Q. Have you had an opportunity to review the document?

A. Yes.

Q. Are you familiar with this document?

Α. Yes.

Q. What is this document?

Α. These are interrogatories that were completed by me.

Q. You had an opportunity to verify that these responses were truthful and accurate to the best of your knowledge, correct?

Α. Correct.

Q. When is this document dated?

Α. January 14, 2010.

Have you ever seen, at any point in time have you ever seen a copy of the decedent's autopsy report?

Α. No.

Q. To this date you never reviewed that autopsy report?

> Α. No.

Prior to April 12, 2008, which is the date that this incident occurred, did you have any interactions with Mr. Lazo?

Α. Not to my knowledge, my recollection.

Q. Was Mr. Lazo ever the subject of one of your investigations prior to April 12, 2008?

Α. Yes.

> Q. When was that?

Prior to the incident Mr. Lazo was identified by an outside agency as being involved in a major drug operation connected to Gilberto Rivera, a/k/a Macho, who was selling a large amount of drugs in Suffolk County, and Kenny Lazo was identified as one of his main drug dealers who also used the nickname Carlos, and 84

Talt

sold cocaine and crack cocaine for Gilberto Rivera, a/k/a Macho.

I also spoke with drug dealers that I have encountered -- drug addicts that I have encountered in the Third Precinct area who described Kenny Lazo and without identifying him by full name, vehicle and locations where he sold drugs. I also have ---

Q. I need to stop you there.

Can you just explain what you mean that the drug addicts described Mr. Lazo to you? In what sense did they describe him to you?

They were purchasing drugs, cocaine, crack cocaine, from a heavy-set male Hispanic operating a new blue Cadillac vehicle along Sunrise Highway in different parking lots.

When did you have these conversations with these drug addicts?

A couple of different occasions from several weeks leading up to the actually day of incident.

<i>,</i>	ZALEZ -V- COUNTY OF SUFFOLK	- 	CHRISTOPHER TAL
	85 Talk		87
1	Talt	1	Talt
2	Q. How many drug addicts did you	2	the arrest.
3	speak to?	3	Q. What detective assisted in
4	A. Two or three people gave me	4	that arrest?
5	similar information, reference this	5	A. Detective O'Hara.
6	activity.	6	Q. What is that source's
7	Q. Have you ever, prior to that	7	ethnicity?
8	time, arrested those drug addicts and	8	A. I don't know.
9	charged them with crimes?	9	Q. Did you ever meet that source?
10	A. No. Well, there is different	10	A. No, I did not.
11	sources of information. There is a source	11	Q. By whom did you learn of that
12	of information that was arrested and	12	source's information which you described
13	debriefed by an outside agency who	13	earlier?
14	identified Kenny Lazo as being part of	14	A. From Detective O'Hara and
15	this large ring of, narcotics ring	15	another Detective O'Hara who is assigned
16	connected to Gilberto Rivera a/k/a Macho.	16	to the drug enforcement agency.
17	Yes, there was one person arrested for	17	MR. DUNNE: Is that a
18	drug charges who identified him.	18	federal agency?
19	Q. That one source, you labeled	19	THE WITNESS: Yes.
20	him as one of the drug addicts?	20	Q. Have you ever seen the DEA,
21	A. Drug addict, drug dealer.	21	Drug Enforcement Agency file pertaining to
22	Q. What was that source charged	22	Kenny Lazo?
23	with previously?	23	A. The entire file?
24	A. The day that he was debriefed?	24	Q. Yes.
25	Just that day?	25	A. No.
	86	 	88
1	Talt	1	Talt
2	Q. That day, yes.	1	
	Q. That day, yes.	2	
3	_	2	Q. Have you ever seen portions of
3 4	_		Q. Have you ever seen portions of that file?
	A. I believe it was a possession	3	Q. Have you ever seen portions of that file? A. Yes.
4	 A. I believe it was a possession arrest and possibly a parole violation. Q. You indicated this occurred 	3 4	 Q. Have you ever seen portions of that file? A. Yes. Q. When did you first see
4 5	A. I believe it was a possession arrest and possibly a parole violation.	3 4 5	 Q. Have you ever seen portions of that file? A. Yes. Q. When did you first see portions of that file?
4 5 6	 A. I believe it was a possession arrest and possibly a parole violation. Q. You indicated this occurred weeks leading up to the April 12, 2008 	3 4 5 6	Q. Have you ever seen portions of that file? A. Yes. Q. When did you first see portions of that file? A. Right after the debriefing.
4 5 6 7	A. I believe it was a possession arrest and possibly a parole violation. Q. You indicated this occurred weeks leading up to the April 12, 2008 incident?	3 4 5 6 7	Q. Have you ever seen portions of that file? A. Yes. Q. When did you first see portions of that file? A. Right after the debriefing. Q. What do you recall seeing in
4 5 6 7 8	A. I believe it was a possession arrest and possibly a parole violation. Q. You indicated this occurred weeks leading up to the April 12, 2008 incident? A. This was sometime earlier than	3 4 5 6 7 8	Q. Have you ever seen portions of that file? A. Yes. Q. When did you first see portions of that file? A. Right after the debriefing. Q. What do you recall seeing in that file?
4 5 6 7 8 9	A. I believe it was a possession arrest and possibly a parole violation. Q. You indicated this occurred weeks leading up to the April 12, 2008 incident? A. This was sometime earlier than that.	3 4 5 6 7 8 9	Q. Have you ever seen portions of that file? A. Yes. Q. When did you first see portions of that file? A. Right after the debriefing. Q. What do you recall seeing in that file? A. I recall seeing an operation
4 5 6 7 8 9	 A. I believe it was a possession arrest and possibly a parole violation. Q. You indicated this occurred weeks leading up to the April 12, 2008 incident? A. This was sometime earlier than that. Q. How much time earlier? 	3 4 5 6 7 8 9 10	Q. Have you ever seen portions of that file? A. Yes. Q. When did you first see portions of that file? A. Right after the debriefing. Q. What do you recall seeing in that file? A. I recall seeing an operation that was drawn out with Gilberto Rivera,
4 5 6 7 8 9 10	A. I believe it was a possession arrest and possibly a parole violation. Q. You indicated this occurred weeks leading up to the April 12, 2008 incident? A. This was sometime earlier than that. Q. How much time earlier? A. I don't recall.	3 4 5 6 7 8 9	Q. Have you ever seen portions of that file? A. Yes. Q. When did you first see portions of that file? A. Right after the debriefing. Q. What do you recall seeing in that file? A. I recall seeing an operation that was drawn out with Gilberto Rivera, a/k/a Macho, being the ringleader, with
4 5 6 7 8 9 10 11	A. I believe it was a possession arrest and possibly a parole violation. Q. You indicated this occurred weeks leading up to the April 12, 2008 incident? A. This was sometime earlier than that. Q. How much time earlier? A. I don't recall. Q. More than two months earlier? A. Again, I don't recall.	3 4 5 6 7 8 9 10 11 12	Q. Have you ever seen portions of that file? A. Yes. Q. When did you first see portions of that file? A. Right after the debriefing. Q. What do you recall seeing in that file? A. I recall seeing an operation that was drawn out with Gilberto Rivera, a/k/a Macho, being the ringleader, with spokes coming out from him, lines drawn,
4 5 6 7 8 9 10 11 12 13	A. I believe it was a possession arrest and possibly a parole violation. Q. You indicated this occurred weeks leading up to the April 12, 2008 incident? A. This was sometime earlier than that. Q. How much time earlier? A. I don't recall. Q. More than two months earlier? A. Again, I don't recall. Q. Were you the police officer	3 4 5 6 7 8 9 10 11 12 13	Q. Have you ever seen portions of that file? A. Yes. Q. When did you first see portions of that file? A. Right after the debriefing. Q. What do you recall seeing in that file? A. I recall seeing an operation that was drawn out with Gilberto Rivera, a/k/a Macho, being the ringleader, with spokes coming out from him, lines drawn, identifying multiple subjects by name,
4 5 6 7 8 9 10 11 12 13	A. I believe it was a possession arrest and possibly a parole violation. Q. You indicated this occurred weeks leading up to the April 12, 2008 incident? A. This was sometime earlier than that. Q. How much time earlier? A. I don't recall. Q. More than two months earlier? A. Again, I don't recall. Q. Were you the police officer that made the arrest on that source?	3 4 5 6 7 8 9 10 11 12 13 14	Q. Have you ever seen portions of that file? A. Yes. Q. When did you first see portions of that file? A. Right after the debriefing. Q. What do you recall seeing in that file? A. I recall seeing an operation that was drawn out with Gilberto Rivera, a/k/a Macho, being the ringleader, with spokes coming out from him, lines drawn, identifying multiple subjects by name, nickname, and some details about their
4 5 6 7 8 9 10 11 12 13 14	A. I believe it was a possession arrest and possibly a parole violation. Q. You indicated this occurred weeks leading up to the April 12, 2008 incident? A. This was sometime earlier than that. Q. How much time earlier? A. I don't recall. Q. More than two months earlier? A. Again, I don't recall. Q. Were you the police officer that made the arrest on that source? A. No, I was not.	3 4 5 6 7 8 9 10 11 12 13 14 15	Q. Have you ever seen portions of that file? A. Yes. Q. When did you first see portions of that file? A. Right after the debriefing. Q. What do you recall seeing in that file? A. I recall seeing an operation that was drawn out with Gilberto Rivera, a/k/a Macho, being the ringleader, with spokes coming out from him, lines drawn, identifying multiple subjects by name, nickname, and some details about their involvement in this large drug ring.
4 5 6 7 8 9 10 11 12 13 14 15	A. I believe it was a possession arrest and possibly a parole violation. Q. You indicated this occurred weeks leading up to the April 12, 2008 incident? A. This was sometime earlier than that. Q. How much time earlier? A. I don't recall. Q. More than two months earlier? A. Again, I don't recall. Q. Were you the police officer that made the arrest on that source? A. No, I was not. Q. Do you know if he was ever	3 4 5 6 7 8 9 10 11 12 13 14 15 16	Q. Have you ever seen portions of that file? A. Yes. Q. When did you first see portions of that file? A. Right after the debriefing. Q. What do you recall seeing in that file? A. I recall seeing an operation that was drawn out with Gilberto Rivera, a/k/a Macho, being the ringleader, with spokes coming out from him, lines drawn, identifying multiple subjects by name, nickname, and some details about their involvement in this large drug ring. Q. Do you recall seeing the name
4 5 6 7 8 9 10 11 12 13 14 15 16 17	A. I believe it was a possession arrest and possibly a parole violation. Q. You indicated this occurred weeks leading up to the April 12, 2008 incident? A. This was sometime earlier than that. Q. How much time earlier? A. I don't recall. Q. More than two months earlier? A. Again, I don't recall. Q. Were you the police officer that made the arrest on that source? A. No, I was not. Q. Do you know if he was ever convicted of a crime based on those	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Q. Have you ever seen portions of that file? A. Yes. Q. When did you first see portions of that file? A. Right after the debriefing. Q. What do you recall seeing in that file? A. I recall seeing an operation that was drawn out with Gilberto Rivera, a/k/a Macho, being the ringleader, with spokes coming out from him, lines drawn, identifying multiple subjects by name, nickname, and some details about their involvement in this large drug ring. Q. Do you recall seeing the name Kenny Lazo in that diagram?
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A. I believe it was a possession arrest and possibly a parole violation. Q. You indicated this occurred weeks leading up to the April 12, 2008 incident? A. This was sometime earlier than that. Q. How much time earlier? A. I don't recall. Q. More than two months earlier? A. Again, I don't recall. Q. Were you the police officer that made the arrest on that source? A. No, I was not. Q. Do you know if he was ever convicted of a crime based on those charges brought on that day?	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q. Have you ever seen portions of that file? A. Yes. Q. When did you first see portions of that file? A. Right after the debriefing. Q. What do you recall seeing in that file? A. I recall seeing an operation that was drawn out with Gilberto Rivera, a/k/a Macho, being the ringleader, with spokes coming out from him, lines drawn, identifying multiple subjects by name, nickname, and some details about their involvement in this large drug ring. Q. Do you recall seeing the name Kenny Lazo in that diagram? A. Yes. A/k/a Carlos.
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A. I believe it was a possession arrest and possibly a parole violation. Q. You indicated this occurred weeks leading up to the April 12, 2008 incident? A. This was sometime earlier than that. Q. How much time earlier? A. I don't recall. Q. More than two months earlier? A. Again, I don't recall. Q. Were you the police officer that made the arrest on that source? A. No, I was not. Q. Do you know if he was ever convicted of a crime based on those charges brought on that day? A. I don't know.	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Q. Have you ever seen portions of that file? A. Yes. Q. When did you first see portions of that file? A. Right after the debriefing. Q. What do you recall seeing in that file? A. I recall seeing an operation that was drawn out with Gilberto Rivera, a/k/a Macho, being the ringleader, with spokes coming out from him, lines drawn, identifying multiple subjects by name, nickname, and some details about their involvement in this large drug ring. Q. Do you recall seeing the name Kenny Lazo in that diagram? A. Yes. A/k/a Carlos. Q. Did the diagram specifically
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A. I believe it was a possession arrest and possibly a parole violation. Q. You indicated this occurred weeks leading up to the April 12, 2008 incident? A. This was sometime earlier than that. Q. How much time earlier? A. I don't recall. Q. More than two months earlier? A. Again, I don't recall. Q. Were you the police officer that made the arrest on that source? A. No, I was not. Q. Do you know if he was ever convicted of a crime based on those charges brought on that day? A. I don't know. Q. Do you know what police	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Q. Have you ever seen portions of that file? A. Yes. Q. When did you first see portions of that file? A. Right after the debriefing. Q. What do you recall seeing in that file? A. I recall seeing an operation that was drawn out with Gilberto Rivera, a/k/a Macho, being the ringleader, with spokes coming out from him, lines drawn, identifying multiple subjects by name, nickname, and some details about their involvement in this large drug ring. Q. Do you recall seeing the name Kenny Lazo in that diagram? A. Yes. A/k/a Carlos. Q. Did the diagram specifically state Kenny Lazo?
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A. I believe it was a possession arrest and possibly a parole violation. Q. You indicated this occurred weeks leading up to the April 12, 2008 incident? A. This was sometime earlier than that. Q. How much time earlier? A. I don't recall. Q. More than two months earlier? A. Again, I don't recall. Q. Were you the police officer that made the arrest on that source? A. No, I was not. Q. Do you know if he was ever convicted of a crime based on those charges brought on that day? A. I don't know. Q. Do you know what police officer made the arrest?	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q. Have you ever seen portions of that file? A. Yes. Q. When did you first see portions of that file? A. Right after the debriefing. Q. What do you recall seeing in that file? A. I recall seeing an operation that was drawn out with Gilberto Rivera, a/k/a Macho, being the ringleader, with spokes coming out from him, lines drawn, identifying multiple subjects by name, nickname, and some details about their involvement in this large drug ring. Q. Do you recall seeing the name Kenny Lazo in that diagram? A. Yes. A/k/a Carlos. Q. Did the diagram specifically state Kenny Lazo? A. Yes.
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4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A. I believe it was a possession arrest and possibly a parole violation. Q. You indicated this occurred weeks leading up to the April 12, 2008 incident? A. This was sometime earlier than that. Q. How much time earlier? A. I don't recall. Q. More than two months earlier? A. Again, I don't recall. Q. Were you the police officer that made the arrest on that source? A. No, I was not. Q. Do you know if he was ever convicted of a crime based on those charges brought on that day? A. I don't know. Q. Do you know what police officer made the arrest?	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q. Have you ever seen portions of that file? A. Yes. Q. When did you first see portions of that file? A. Right after the debriefing. Q. What do you recall seeing in that file? A. I recall seeing an operation that was drawn out with Gilberto Rivera, a/k/a Macho, being the ringleader, with spokes coming out from him, lines drawn, identifying multiple subjects by name, nickname, and some details about their involvement in this large drug ring. Q. Do you recall seeing the name Kenny Lazo in that diagram? A. Yes. A/k/a Carlos. Q. Did the diagram specifically state Kenny Lazo? A. Yes.

for drug dealers to use major roadways and residential streets off of main roadways and parking lots where they will meet, they will do a drug deal. They will go window to window. The people never even get out of their car. Every tour that I

With respect to the two to three sources that you indicated who were white, that gave you the description of a Carlos, did you ever have any further investigations or encounters with them?

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GONZALEZ -V- COUNTY OF SUFFOLK CHRISTOPHER TALT 93 95 Talt 1 Talt Α. 2 No. 2 sources, you were in an unmarked car, Q. Can you describe the --3 3 correct? 4 MR. GERMANO: Withdrawn. 4 Α. Yes. Q. 5 What was the description that 5 Q. Did you ever get out of your you received of this Carlos individual? 6 vehicle during your interaction with the 6 There were similar 7 7 sources -descriptions of a heavyset male, Hispanic, 8 8 Α. Yes. 9 in his twenties, possibly named Carlos, 9 Q. -- that we are talking about 10 operating, this was common, was a dark 10 that led to your investigation of Kenny blue, new Cadillac. One person I believe 11 11 Lazo? 12 told me that he had glasses. 12 Α. Yes. I don't approach people Did your sources ever describe 13 13 and stay in my vehicle. It's not safe. I 14 Mr. Lazzo's disposition? In terms of -will exit my vehicle almost every time 14 do you know what I mean by disposition? 15 before I speak to someone. 15 Α. Yes, but no. 16 16 Q. During your conversations with 17 Q. Did any source tell you that these sources, did they ever represent to 17 Mr. Lazo was aggressive? 18 you that they did not want to speak to 18 Α. 19 No. you? 19 Q. 20 Did you have any reason to 20 Α. These? believe while you were conducting your 21 21 Q. Yes, the two sources. investigation that Mr. Lazo was 22 22 Α. No. 23 aggressive? 23 Q. Did you ever threaten those Α. 24 No. sources with arrest? 24 25 Q. How did you initiate contact 25 Α. No. 96 1 Talt 1 Talt with the sources during your 2 Q. 2 Do you know if those sources investigations during your patrols? 3 had any criminal history? 3 4 One of them I received a phone 4 Α. No, I don't know. call from at the precinct. The others 5 5 Q. Did you ever promise these occurred while checking parking lots in 6 sources that you would not arrest them for 6 7 the 3rd Precinct area. It's become very drug related offenses if they gave you 7 common for people to meet in these parking 8 8 information? lots, as I explained earlier. A lot of 9 9 Α. No. times people involved they chose to meet 10 10 Other than the DEA file, was in a large parking lot. They park far 11 there an active file with NESOT, which you 11 away from everybody else's traffic in that 12 12 described earlier? 13 parking lot. Again, I regularly conduct 13 Α. An active file, no. surveillance of these people. It's not 14 14 Q. Detective Talt, I would like normal to sit in a vehicle by yourself, at 15 to step back for a moment on a couple of 15 the end a parking lot away from all of the 16 16 areas. 17 stores. During my tours sometimes I will 17 During the grand jury interrupt a drug deal, sometimes I will 18 18 presentation were you aware if anybody sit and conduct surveillance and no drug 19 19 else testified? deal will occur. Then I will take it upon 20 20 Α. I knew other people were myself to call a time to go over and 21 21 testifying, I don't --interview the person and find out why they 22 Who did you know would be 22 Q. are there, and people talk to the police, 23 23 testifying? 24 and that is how --24 Α. I knew my partner was going to 25 Q. When you spoke to these 25 testify. I knew Officer Judge and 05/24/2011 02:08:24 PM Page 93 to 96 of 179 24 of 45 che

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GONZA	ALEZ -V- COUNTY OF SUFFOLK		CHRISTOPHER TALT
	101		103
1	Talt	1	Talt
2	Q. You reviewed documents	2	A. 4/12/08.
3	MR. GERMANO: Withdrawn.	3	Q. When did you draft this
4	Q. Or than the supplementary	4	document?
5	report, you reviewed the drug case file	5	A. 4/12/08.
6	with respect to this case?	6	Q. What is the title of this
7	A. Yes.	7	document?
8	Q. What kind of documents were	8	A. Death investigation.
9	maintained in the drug case?	9	Q. This specific document, what
10	A. Evidence, paperwork.	10	is its title?
11	Q. Do you recall specifically	11	A. Supplementary report.
12	what kind of paperwork?	12	Q. Is this an accurate
13	A. Property evidence paperwork,	13	representation of circumstances of this
14	evidence analysis for the lab. It was	14	case to the best of your understanding?
15	incident paperwork, basically an incident	15	A. It's accurate, yes.
16	report. It describes the entire incident,	16	Q. Is this narrative described in
17	facts, evidence recovered.	17	this report similar to the narrative you
18	Q. Does that incident report also	18	provided during your testimony to the
19	include the circumstances that led to	19	grand jury?
20	Mr. Lazo's death?	20	A. Similar. My narrative to the
21	A. No.	21	grand jury was a lot more detailed.
22	Q. Is it fair to say that it only	22	Q. With respect to the grand
23	includes the drug references? A. The drugs reference. The two	23	jury, what was in the grand jury testimony
24		24	that was not included in the supplementary
25	charges that the case is being that 102	25	report, excluding any prior investigation
1	Talt	1	Talt
2	Detective Newton handling the case it	2	of who we now know as Kenny Lazo, from the
3	would be criminal possession, controlled	3	point you actually began to investigate?
4	substance, third degree.	4	MR. DUNNE: That is a
5	Q. Other than the drug case, the	5	different question. Just so I
6	file, and the supplementary report, did	6	am clear, in terms of the
7	you review any other documents in	7	facts excluding that other
8	preparation for the grand jury testimony?	8	stuff.
9	A. Not that I recall.	9	A. Excluding what other stuff?
10	Q. The account that you provided	10	Q. The prior investigation of
11	during your testimony was	11	Mr. Lazo. Prior to 4/12/08. I am
12	MR. GERMANO: Withdrawn.	12	specifically talking about from 4/12/08
13	Can you please mark this	13	onward?
14	as Exhibit 2.	14	A. What is not included in here?
15	(Document was marked as	15	Q. What was in your narrative at
16	Plaintiff's Exhibit 2 for	16	the grand jury that was not included in
17	identification, as of this	17	here?
18	date.)	18	A. Some of the conversations that
19	Q. Detective Talt, I am placing	19	I had with Mr. Lazo in the interview room
20	before you what has been identified as	20	129A. Every officer who came in and
21	Plaintiff's Exhibit 2. I ask that you	21	rendered aid, every officer's name is not
22	take a look at that document?	22	listed, who I recall rendering what type
100	A. Yes, I am familiar with it.	23	of aid.
23	·	23	
23	Q. What is the date of that document?	24	Q. Anything else? A. A full description of

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Q. Did you ever receive a photograph during your prior investigations of the person identified as Carlos?

A. No.

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Q. Therefore is it fair to say that you never showed a photograph of a person who you learned to be Carlos while you were speaking to the sources?

A. Correct.

Q. You previously indicated that people talked to the police when we were talking about why the sources had a conversation with you about the individual identified as Carlos.

What occurred during the conversation with the sources --

MR. GERMANO: Withdrawn.

Q. Why did those sources actually have a conversation with you?

MR. DUNNE: I am going object to the extent that it calls for someone else's state

Talt

plain clothes. I am in a suit, in jeans, a T shirt, a sweatshirt. When I approach somebody, I approach them with my shield hung around my neck and I identify myself as a Suffolk County detective.

Q. On April 12, 2008, what was your tour?

A. 5:00 at night to 1:00 in the morning.

Q. Who was your supervisor during that tour?

A. That night was Detective Sergeant Koerber.

Q. Who were you partnered with that night?

A. John Newton.

Q. For approximately how long were you partners with John Newton?

A. We have been partners for approximately six years.

Q. That tour, did you have any expectations in terms of your duties and roll as a police officer at the start of that tour?

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- earlier on in the testimony.
- I am asking, if you had essentially a mission planned out for that tour?
- Α. No. We left the precinct and we were checking known drug locations in the precinct, but we were not on a mission to arrest Kenny Lazo. If I would have come across two people selling drugs in a car in the Home Depot parking lot, in the Bob's parking lot, in the South Shore Mall, they would have been arrested.
- What vehicle were you Q. operating that day?
 - I was in an unmarked Montego. Α.
- Q. Was your partner in that same vehicle?
- Α. No. He was in another unmarked vehicle, an SUV.
- Is it routine for detectives to operate separate vehicles?
 - Α. Yes.

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25 Q. Under what circumstances do

Talt

you operate a vehicle with another detective or patrol officer as a passenger in your vehicle?

- I do it both ways. That night it was just my partner and I. We were in separate vehicles in radio contact and phone contact both in the same area. Sometimes we are together, sometimes we separate. It is just one of the ways we do it.
- Q. So you don't always have -you are not always in view of one another, is that accurate to say?
- In view, no. But we stay close in contact so we know what is going on.
- Q. You indicated that you are in radio and phone contact with one another, what band did you operate on that day?
- We operated on the 3rd Precinct band, radio band, and the detective radio band.
- When you are operating on one or the other, are you able to listen in on

- If you have a portable radio with you you can have one on one channe and another -- depending on how many radios you have, you can be on multiple channels.
- Q. How many radios did you carry on 4/12/08?
- Α. The car radio and the portable radio.
- Q. Did you in fact have each radio tuned in to a different band?
 - Yes. Α.
- Q. Which band was your car radio tuned into?
- I don't recall which way I had Α. it. I know I was on both, but I don't know which way I had it set up.
- You use the mobile device in order to stay in contact with Detective Newton, correct?
 - Α. Mobile device?
 - Q. Cell phone.
 - Yes. That is one of the ways.

Talt

- Q. Is this a County issued cell phone or a personal cell phone?
 - Α. We have both.
- Q. On April 12, 2008, did you have both?
 - Α. I don't recall.
- Q. Do both of your cell phones, the County issued cell phone and your personal cell phone, utilize the same network or different networks in terms of Sprint, Verizon, AT&T?
- Different, but we don't have phones that are assigned to us. There phones that are assigned to the detective squad. We don't have actual phones. We can take a phone or --
- Q. Do you recall if you took a phone that day?
 - No. I don't recall. Α.
- Is there a document which would indicate whether you took a phone that day that you would have to fill out in order to obtain a phone from the County?

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Talt Α. No. Q. Approximately, how many cell

phones are maintained for use by the detectives?

Α. Three to five.

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Q. How is it determined whether a detective uses a cell phone for a tour?

Α. If you need to use a cell phone, you can use the cell phone that is assigned to the third squad, otherwise you can use your own cell phone.

But when you arrive for a tour and you are suiting up for your tour, how is it determined if you take a cell phone or don't take a cell phone?

If you need one, you take it and you return it at the end of the tour or when you are done using it.

Is it your usual practice to take a cell phone for a tour? MR. DUNNE: Object to usual. I don't know what

it means but go ahead and answer as best you can.

114

Talt

Α. Sometimes I do and sometimes I don't.

Q. Today you don't recall one way or another if you used one issued from the County that day?

Α. No, I don't recall.

Q. There is no documentation that an officer or detective needs to fill out prior to taking a cell phone and using it for a tour?

Α. You can put something down that you took the phone but the phones are out for use for anyone. You can put a note there that you have the phone. I can put a cell phone number on a radio log. I generally use one of two cell phones in the precinct, but I don't use one every tour.

Q. Can you identify those two cell phones for us today? Are they labeled with any particular number or identifiable mark?

Α. They are two Nextel cell phones.

Talt

Q. Are the three to five phones that exist in the detective squad room all Nextel phones?

A. Yes.

Q. Do they have identifying numbers labeled?

Yes, they have phone numbers. That is how -- they are not labeled 1, 2, 3, 4, 5. They have three to five phones and they all have their own number.

Q. Do you recall if Detective Newton carried one of the Nextel phones?

No. I don't recall.

Q. In your personal --MR. GERMANO: Withdrawn.

Q. In the office issued cell phone, how are the phones identified?

Α. By phone number.

Q. Is there any other label within the contact list that states something else?

Α. No.

Q. In your personal cell phone, how is Detective Newton identified?

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Talt

Α. In my personal cell phone?

Q. In your contact list.

Α. By his name, I believe.

Q. By his full name?

I don't know. Α.

Q. On April 12, 2008, how did you come to observe Mr. Lazo?

Shortly after 8:00 p.m. my partner advised me that he observed a blue Cadillac parked in front of Herbee Dodge in West Islip.

Q. The fact that your partner explained to you that he observed a blue Cadillac in front of the Herbee Dodge, what did that mean to you?

Α. It meant that we had info in the past fitting the description of that vehicle and he saw one just parked by itself in front of a business that was closed at the time. It was 8:00 o'clock on a Saturday night. He was going to start conducting surveillance on that vehicle.

Q. Did you receive that

GONZALEZ -V- COUNTY OF SUFFOLK CHRISTOPHER TA 117 119 1 Talt 1 Talt 2 message -- did you have that conversation 2 doing at that time? with Detective Newton over the radio, or 3 3 Following that vehicle. cell phone, or something else? 4 What happened after you began 4 I believe it was over the 5 5 to follow the vehicle? radio. 6 6 It was eastbound on Sunrise Q. 7 What, if anything, did you 7 Service, came to a -- Detective Newton was tell Detective Newton? 8 behind him. I was one or two cars behind 8 9 Α. I don't know what I told him, Detective Newton and the vehicle came to a but I know I started heading right over. 10 10 stop at a red light on Udall Road. I was in the area but I made my way over 11 Was that the first time that 11 12 to that location. 12 you actually visibly saw Detective 13 Where were you located when Newton's vehicle and the blue Cadillac? 13 14 vou received the call from Detective 14 I believe so. 15 Newton? 15 Q. What happened after the car 16 Α. I was in West Islip. I 16 came to a stop? believe I was on the service road on 17 17 Waited for the light to turn Sunrise Highway on the opposite side. 18 green, and then I proceeded eastbound on 18 19 Q. You would have been on the 19 the Sunrise Highway service. north side? 20 20 Q. What happened next? 21 Α. North side. 21 A. We followed the vehicle. I Q. 22 Did you actually begin to make later learned that that vehicle is being 22 23 your way over to Herbee Dodge? operated by Kenny Lazo. He is the only 23 24 Α. Yes. 24 occupant in the vehicle. Q. 25 What route did you take to get 25 Q. Did you later learn that he 120 Talt 1 1 Talt 2 there? was the only occupant or did you actually 2 3 Α. I went over, I believe it's 3 see at the time that he was the only Higbie Lane which crosses over Sunrise 4 4 occupant? Highway and when I got over the overpass I 5 5 Α. At the time I can only see him positioned myself so I can go in the 6 6 but I could not say for certain that he 7 eastbound direction. 7 was the only one in the car but that is Are you certain that you were 8 the only person I saw, the head. 8 on Higbie Lane when you crossed over 9 9 Q. Then what happened? Sunrise? 10 10 The vehicle reached West First Α. Am I certain, no. 11 Street in West Islip and made a right turn 11 Q. What happened when you placed 12 12 on to the block. yourself in an easterly position? 13 13 Q. Did the vehicle use a signal 14 Α. The vehicle began to travel when it made the turn? 14 eastbound on -- the blue the vehicle, the 15 A. 15 I don't recall. Cadillac, started to travel eastbound on 16 16 Q. You said it made a right turn the service road of Sunrise Highway and I 17 17 onto West First? started heading in that direction also. 18 18 Α. Yes. 19 How did you come to learn that Then what happened? 19 Q. the vehicle began to travel eastbound on 20 20 There is a slight bend in that 21 🖖 the service road? road. The vehicle continued around the 21 22 Α. **Detective Newton.** bend. My partner, who was behind him, 22 Q. What did you do at that point? 23 continued east on the service road, so 23 I started to travel east also. 24 Α. Lazo, on normal surveillance would not 24 25 What was Detective Newton realize that he was being followed. 25

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of the road --

No.

No.

-- at any time?

Was it dark out that evening

Α.

Q.

Α.

Q.

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Q.

Α.

the bend?

view of the vehicles?

Was your perspective from on

I was around the bend.

You did not have a straight

GONZALEZ -V- COUNTY OF SUFFOLK CHRISTOPHER TALT 125 127 1 Talt 1 Talt Α. I went around the bend. I had 2 2 Α. He accelerated at a very -- I a pretty straight view of the vehicles. 3 could hear his motor rev when he left, the 3 Q. Were you stopped at that 4 4 two subjects met hands, he accelerated. point? 5 5 but he did not have that much of a Α. 6 I pulled over, yes. 6 distance to go to get to the stop sign. Q. 7 Did you pull to the right side Once he went through the first 7 of the road? 8 8 stop sign he accelerated again. Yes, I Α. I pulled to the right side. I 9 don't know the posted speed limit on those 9 did not pull all the way over to the curb, 10 10 two side blocks, but he was driving at an but I pulled over. 11 11 imprudent, unsafe speed, I can tell you Did your headlights remain on? Q. 12 12 that. Α. Yes. 13 RL 13 MR. GERMANO: Move to Q. Then after you saw the blue 14 14 strike the portion that is Cadillac accelerate at a high rate of 15 15 unresponsive. We'll just mark speed, what did you do? 16 16 it for a ruling. I started to follow it. Lazo 17 Q. 17 You indicated you don't know drove to -- the first intersection there 18 what the posted speed limit was, correct? 18 is Pine. I don't recall if it is Pine 19 No, I don't. 19 Α. Street or Pine Avenue. He made a left 20 20 Q. Did you pace him and notice turn there. I followed him, made a left 21 21 what his rate of speed was at any point? turn there. I was behind him. He then 22 22 Α. No. approached Sunrise Service Road. 23 Q. 23 Once you reached that point on Q. May I stop you right there. 24 Sunrise Highway Service Road, what 24 25 Approximately, how many stop 25 happened? 128 Talt 1 Talt 1 2 signs did you have to proceed through in Α. 2 He makes a right turn onto the order to reach that point at the service 3 Service Road, I am following him --3 road? 4 At this point you are heading 4 Q. Α. 5 Two. east? 5 Q. 6 Did Mr. Lazo stop at each stop Α. 6 I am heading east on the 7 sign? Service Road. Now he's accelerating even 7 Α. 8 No, he did not completely stop 8 faster now having hit the Service Road. at them. He braked, but did not come to a 9 9 He is traveling towards the Robert Moses. complete stop. 10 He gets on the Robert Moses and again is 10 Q. 11 Are you talking about two driving very fast. I am behind him. At 11 times or one time? 12 12 that time I am not pacing him, but I am Α. Two times. 13 13 aware that we are driving at a high rate Q. Those two occurrences, was 14 of speed. 14 that sufficient enough to stop him and 15 15 Q. Do you know what rate of speed issue him a traffic infraction based on 16 your vehicle was at? 16 your experience? 17 Α. No, I don't. I know it was 17 Α. Yes. 18 18 more than 55 miles per hour. Q. 19 But you did not stop him at 19 Did you ever document that time? 20 anywhere, at any point in time, that you 20 21 ` Α. No. were driving at a rate faster than 21 Q. Was he driving at a rate of 22 55 miles an hour? 22 speed in violation of the posted speed 23 Α. 23 No. 24 limit before he reached that point at 24 Q. Based on your experience, did

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Sunrise Highway?

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you receive any indication that Mr. Lazo Page 125 to 128 of 179 32 of 45 sheets

Case 2:09-cv-01023-ST Document 70-4 Filed 01/09/19 Page 213 of 286 PageID #: 2234 GONZALEZ -V- COUNTY OF SUFFOLK CHRISTOPHER TAL 129 131 Talt 1 1 Talt 2 observed your vehicle? Α. 2 I believe I had a few Α. I was starting to suspect that conversations. That was with the officers 3 he might have. 4 that were involved. You were driving north on the ٠ Q. 5 5 Q. What officers did you have Robert Moses, correct? 6 6 conversations with? We are talking about 7 Α. Correct. up until the time that Mr. Lazo, or the 7 Q. 8 What happened as you were blue Cadillac, made the lane change? 8 9 driving north? I believe there were some 9 Α. 10 Mr. Lazo was in the left lane 10 radio transmissions of the direction of heading north, where you reach the 11 travel. 11 Southern State Parkway, if he stayed in 12 12 Q. Between who? that left lane, which I thought he was 13 Α. 13 Between, I don't remember, 14 going to do, because it comes up pretty 14 recall exactly who was transmitting but fast, you would head westbound on the 15 15 the officers that were present were Southern State Parkway. At the last 16 Officer Judge, Sergeant Scimone, and my 16 second that Mr. Lazo had, he cut across 17 17 partner, Detective Newton. the traffic lanes and proceeded to the Bay 18 Is it Sergeant Scimone or 18 19 Shore Road entrance which leads you to 19 Scimone? eastbound Southern State Parkway. At the 20 20 Α. The correct pronunciation? same time that is what I do. 21 21 MR. DUNNE: Scimone. Where was Detective Newton 22 22 Q. At what point, did you first 23 while you were tailing the blue Cadillac? 23 contact somebody other than Detective Behind us, following us, 24 Newton regarding your surveillance, 24 exactly where I don't know, but he had 25 pertaining to the surveillance, pertaining 130 132 1 Talt 1 Talt 2 pulled away and caught up to us. 2 to you tailing the blue Cadillac? At any point did you notice 3 3 Prior to all of this I asked 4 his vehicle in your rearview mirror or any Sergeant Scimone if he would be available. 4 5 other mirror? He was with Officer Judge, if they would 5 Α. I don't recall. 6 6 be available to assist us. Q. 7 Approximately, how many lanes 7 When you asked if they were did Mr. Lazo cut across in order to take 8 going to be available to assist you, did 8 9 the Bay Shore Road exit? • 9 you have an expectation of what they would I believe it's three. I can 10 Α. 10 be assisting you with? tell you that he went from the far-left 11 Α. Could be anything, a traffic 11 lane over to the far-right lane, however 12 12 stop, an arrest. 13 many lanes that may be. That was his Did this conversation take 13 14 route. 14 place before Detective Newton informed you Q. 15 That change over three lanes that he recognized the blue Cadillac at 15 was that an offense that one could receive 16 Herbee Dodge? 16 17 for a traffic infraction? A. 17 Before. Α. Yes. It was an unsafe lane 18 18 At that point did you have any 19 change. further conversations with Sergeant 19 Q. Mr. Lazo was never stopped at 20 Scimone or Police Officer Judge? that point in time? 21 Α. At that it was just -- no. We Α. Not at that point. 22 22 are going to be in that area, can you help Q. Up until this point, did you 23 23 us out. They agreed, came over our way, have any conversations with any other 24 and that is it. 24

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police officers?

Q.

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GONZALEZ -V- COUNTY OF SUFFOLK

CHRISTOPHER TALT

Talt
up until the point where the blue Cadillac
made the lane change, did you have any
further conversations with Sergeant
Scimone, Officer Judge or Detective
Newton?

A. One more time?

- Q. Up until the point where the blue Cadillac was observed making that lane change, did you have any conversations with Officer Judge, Sergeant Scimone, or Detective Newton, other than the one where you said are you going to be available to help us out?
- A. There was some direction, direction of travel, some identifying the vehicle. Transmissions of that nature.
- **Q.** Did you make any requests of those officers?
- A. Make any requests, I requested that Sergeant Scimone and Officer Judge come over and assist us.
- **Q.** At what point in time did you make that request?

Talt

A. I don't know, approximately

7:30, 8:00 o'clock --

Q. I am talking about when you were already on the road tailing the blue Cadillac, when was the first time you made contact with Sergeant Scimone and/or Officer Judge --

MR. GERMANO: Withdrawn.

- Q. From the time that Detective
 Newton indicated that he observed a blue
 Cadillac to the point where there was that
 lane change that you observed on the
 Robert Moses Causeway, when was the first
 point in time you made contact with
 Sergeant Scimone or Police Officer Judge?
- A. Again, I don't recall who actually had the radio transmissions but it was car is here, the car is traveling eastbound, we are at Udall Road. I don't recall if I made the transmissions, but we are all on the same radio band so we are all having this same conversation, so we are all aware of our direction of travel.
- Q. Those officers would not be aware of your route or what you were doing

Talt unless you told them, correct?

- A. Again, this is what I believe that they understood that I was following because these were transmissions that were being given of where the vehicle was. We are asking them for help and we are giving directions, so I am assuming that they know where I am. That I am behind him.
- **Q.** Do you know what type of vehicle Sergeant Scimone and Officer Judge were in?

A. A marked police vehicle.

- **Q.** From the point in time when you observed the blue Cadillac make the lane change, what happened next?
- A. As you had asked earlier if I was suspicious of him thinking that he may know that I was following him, that is when I became very suspicious that he saw me behind him, being that we left a residential area, and now we are all the way up the parkway and he made some different changes in his route. That is when I actually pass. The vehicle traffic

Talt

stop occurs at the Bay Shore Road entrance to the Southern State Parkway, east. At that moment, I decide that I am going to pass the traffic stop rather than pull over where, if Lazo was aware that I was following him, now that he would know that I followed him from this hand to hand movement I saw him involved in between his vehicle and the other vehicle.

So I pass the actual traffic stop and I go on to the Southern State Parkway in an eastbound direction and I pull over around the first bend onto the shoulder of the roadway -- onto the grass of the roadway.

- Q. What exit were you closest to?
- A. I was between, closest -- in reverse, I was closest to that Bay Shore Road exit and the next exit east of me would be Fifth Avenue. I was much closer to Bay Shore Road.
- Q. Did you instruct Sergeant
 Scimone or Police Officer Judge to make a traffic stop of the blue Cadillac?

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MR. GERMANO: Withdrawn. Q. Do the Nextels that you described earlier contain Sergeant Scimone's and Officer Judge's telephone number?

Α. No.

Q. Do you recall earlier in the evening when you first had contact with Scimone how you had that contact, was it over the radio, or cell phone, or something else?

Α. First contact was cell phone.

Q. Would that have been with your personal cell phone?

Α. I don't recall.

Q. Does Sergeant Scimone, to the best of your knowledge, have those five Nextel phone numbers in his possession?

Α. I don't believe he does.

MR. GERMANO: To the extent that they have not already been demanded, we make a demand for any and all cell

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Q. Did you ever tell Sergeant Scimone or Officer Judge that you wanted the vehicle stopped?

Again, I believe that there was a radio transmission between me and my partner that we wanted to stop the vehicle. I don't recall the exact words but, yes, I wanted them to stop the vehicle.

But you don't recall if you gave instructions for them to stop the vehicle?

I don't recall how it was given to them. I just know that they were aware, that I wanted the vehicle stopped.

While you were situated in front of the vehicle stop, for approximately how long did you remain stationed there?

Initially, I pulled over and I was on the grass, a couple of minutes went by, I believe, when a New York State trooper in a marked police unit pulled

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GONZALEZ -V- COUNTY OF SUFFOLK 141 1 Talt 1 Talt over to me to see if I needed any type of 2 2 assistance, thinking I was a disabled 3 3 motorist, I imagine. 4 4 5 Q. What conversation did you have 5 with the state trooper? 6 6 7 I identified myself as a 7 police officer. I told him that I was 8 8 One moment. Q. with the officers that were involved in 9 9 the traffic stop to the west of us, that 10 10 he had just passed. He said okay. He 11 11 came first? told me that they were okay, they were on 12 Α. 12 Radio. a stop. He proceeded east on the Southern 13 13 Q. 14 State Parkway and again I sat for another 14 over the radio? 15 few minutes. During that time --15 Α. Let's stop there for one 16 Q. 16 17 second. I will allow you to finish that 17 18 answer. 18 19 A couple of minutes passed 19 Q. when that trooper arrived, what was that 20 20 Α. 21 21

trooper's name if you know?

Α. I don't know.

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Q. What did that trooper look like?

Α. He was a male.

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Talt Q. Was he white?

I don't recall if he was Α. white, Black, Hispanic. He was a male.

Q. Did he get out of his vehicle to talk to you?

Α. No, he pulled up next to me.

When you said earlier that he Q. said -- he saw the vehicle stopped, correct?

Α. Yes.

Q. Did he tell you about anything about what he saw?

Α. No. Obviously, if there was something going on he would not have made it to me, he would have stopped. I said, I am with them. I don't remember his exact comment, but he said they are right back there. He continued eastbound and I sat.

Q. You sat for approximately how much longer?

That was probably like a minute or two before he came up, then a minute or so later, a couple of minutes

later I got a radio transmission and a phone conversation with Officer Judge who told me who was in the vehicle. He identified the operator to me from a driver's license ID that it was, subject's name was Kenny Lazo.

When you said Officer Judge contacted you via radio and phone, which

What did he specifically say

It was a very short transmission. I don't recall. I believe he was turning up his -- turning on his -going, getting cell phone and --

What was that?

He was either turning on his cell phone or getting his cell phone and we were going to talk over the phone so Kenny Lazo couldn't hear the radio.

Was Officer Judge next to or near Kenny Lazo when he was making the:

144

CHRISTOPHER TAL

143

Talt

transmissions to you?

Α. I am not sure where he was exactly.

Q. What, if anything, did you tell Officer Judge?

I told him that I observed the operator of that vehicle involved in a hand to hand transaction back on a street in West Islip.

Q. Did you give Officer Judge any instruction or suggestion at that time?

Α. No.

Q. What, if anything, happened next?

We stopped communication. I sat for another minute or two, a couple of minutes. I didn't have -- it was actually a couple of minutes. I started feeling uncomfortable not hearing from them, no phone calls, no radio transmissions.

Q. Was it more than five minutes?

Α. I would say so.

Q. Was it more than ten minutes?

Α. No, I don't believe so.

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Α.

The dispatcher acknowledged me

About a mile. Seemed longer

Q.

At that point in time you put

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of the road behind the scene?

GONZALEZ -V- COUNTY OF SUFFOLK CHRISTOPHER TAI 153 155 Talt 1 1 Talt At least ten minutes. Α. 2 2 to the scene that you saw white? Q. Did you hear any radio I have no idea. Again, when I 3 transmissions or cell phone conversations 4 responded there, I know I saw these once Mr. Lazo was placed in handcuffs? 5 5 officers ---Α. Cell phone? 6 Q. 6 You are referring to the ---Q. Cell phone. 7 7 Α. I am referring to Officer A. No. 8 Scimone and Officer Judge, and I saw my 8 Q. 9 Any radio transmissions that 9 partner, and I don't know, I have no idea 10 he was actually in handcuffs? of color. 10 I don't recall hearing any. Α. 11 Q. 11 Did you ever see Kenny Lazo at Q. Did you hear -- what other 12 12 that scene? conversations or transmissions did you 13 13 Α. No. 14 hear while you were wrapping around to Q. 14 Do you actually recall seeing come to that point? 15 15 the vehicle pulling away that Mr. Lazo may I heard officers answering up 16 16 have been detained in? on the radio saying they are responding. 17 17 I may have, but I don't know I don't remember the exact words that were 18 for certain that that was the vehicle. 18 used, but I recall hearing something to 19 19 Q. The vehicle that you saw the affect that they were controlled. 20 20 pulling away, was it marked or unmarked? 21 Q. Who did you hear that Α. Marked. 21 22 transmission from? 22 Q. Did you notice what officer 23 I don't recall which officer was driving that vehicle? 23 24 said it, but there was a notification A. 24 No. something to the affect of that the 25 Q. Did you notice if there was 154 156 Talt 1 1 Talt 2 situation was controlled. more than one officer in that vehicle? 2 Did you have an understanding 3 Α. 3 No. as to why it was not -- why the situation 4 Q. No you didn't notice or no 4 became that way in the first place, at 5 5 there wasn't? 6 that point in time? 6 Α. No, I did not notice. 7 When an officer calls for an 7 When you arrived at the scene 8 assist, other officers respond. And when 8 what conversations, if any, did you have those officers get there or when the 9 9 with Detective Newton? officer who called for the assist gets it 10 10 My partner told me that who he 11 under control, for the safety of 11 was referring to as Kenny Lazo was 12 everybody, police officers, public, fighting. He didn't want to get 12 13 responding, we put out a notification that handcuffed. He was out of breath, my 13 the situation is, there are many ways to 14 partner, he was disheveled. Just on about 14 say it but, that the situation is 15 15 how the guy wouldn't get handcuffed. controlled, so police officers are not 16 Did he ever, did Detective 16 responding at a high rate of speed with 17 17 Newton, at that point in time, ever tell lights and sirens, for the safety of 18 18 you that Mr. Lazo was fighting the other 19 everybody. 19 officers? Q. At that point in time you 20 Α. Yes. He said that he was didn't know what led to the situation not fighting and he wouldn't let them handcuff 21 22 being in control, other than that officer 22 him. needed an assist? 23 23 Q. Did he specifically say how Α. Yes. 24 24 Mr. Lazo was fighting? 25 Q. Was each officer who responded 25 Α. No.

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)	GONZA	ALEZ -V- COUNTY OF SUFFOLK		CHRISTOPHER TAL
	1.	157		159
	1	Talt	1	Talt
	2	Q. Did he say that Mr. Lazo	2	A. No.
	3 -	punched an officer?	3	Q. Did you notice whether any
	4	A. No.	4	officer received, or appeared to be
	5	Q. Did he say that Mr. Lazo	5	injured at that time?
	6	elbowed an officer?	6	A. They all appeared to be
	7	A. He didn't say specifics. He	7	exhausted and somehow injured. They were
	8	said fighting.	8	hands you know, bending over. My
	9	Q. Did Detective Newton tell you	9	partner, I remember my partner saying
	10	he had to use force in order to make	10	something about his hand hurting.
	11	Mr. Lazo come into compliance?	11	Q. Other than your partner
	12	A. He didn't say that he used	12	indicating that his hand was hurting, did
	13	force. He didn't say that he he just	13	any other officer, detective, or sergeant,
)	14	said there was fighting. He didn't say	14	or police officer indicate that he was
	15	anything specific about what force was	15	injured in any way?
	16	used.	16	A. No.
	17	Q. Did you ask Detective Newton	17	Q. Did you ask if any officers
	18	if he had to use force? A. No. It was apparent to me	18	were injured in any way?
	19		19	A. I asked my partner if he was
	20 21	that obviously he did. Q. How was it apparent to you	20	okay.
	22	Q. How was it apparent to you that Detective Newton used force?	21	Q. Other than indicating that his
	23	A. Because he told he me that he	22	hand was hurting
	24	was fighting with him.	23	MR. GERMANO: Withdrawn.
	25	Q. What conversation did you have	24	Q. Did he say what hand was
	25	158	25	hurting?
	1	Talt	1	160 Talt
	2	with Officer Judge at the scene, if any?	2	A. He made a gesture with his
	3	A. I don't recall having a	3	hand that was hurting. I don't recall
	4	conversation with him there.	4	which hand it was. He moved his hand. He
	5	Q. What conversation did you have	5	showed me his hand, that he hurt his hand.
	6	with Sergeant Scimone at the scene, if	6	Q. Did he tell you how he hurt
	7	any?	7	his hand?
	8	A. I don't recall.	8	A. No.
)	9	Q. Approximately, how long did	9	Q. Did you ask how he hurt his
	10	you remain at that scene for?	10	hand?
	11	A. A short time.	11	A. No.
	12	Q. Less than five minutes?	12	Q. Did you make any suggestion or
	13	A. Less than five minutes.	13	instruction to Detective Newton at that
	14	Q. Did any officer, sergeant, or	14	point in time?
Į	15	detective indicate to you that force was	15	A. No.
	16	used specifically?	16	Q. What, if anything, did you do
	17	MR. DUNNE: You mean the	17	next?
ļ	18	word force?	18	A. Went the 3rd Precinct.
	19	MR. GERMANO: Sure. The	19	Q. How did you get to the 3rd
-	20	word force.	20	Precinct?
	21	A. No.	21	A. Drove.
ļ	22	Q. Did any officer tell you that	22	Q. What vehicle did you drive?
	23	they had to hit Mr. Lazo with their	23	A. My police car.
7	24	flashlights during the period of time when	24	Q. Did you at any point in time
	25	he was fighting?	25	drive the blue Cadillac?
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, _	161		163
.	1 Talt	1	Talt
	A. Yes.	· 2	officers there?
	Q. When did you drive the blue	3	A. I have no recollection of how
ì	Cadillac?	4	many were there. I know there were police
	A. I drove to the precinct,	5	officers, but I have I went immediately
1 6		6	back. I got in the blue Cadillac. I
1 7	The state of the s	7	drove it to the precinct.
8		8	Q. When you arrived at the scene
9		9	the second time to get to the blue
10		10	Cadillac, did you see Sergeant Scimone
11		11	there?
12	#	12	A. No.
13		13	Q. Did you see Officer Judge
14		14	there?
) 15		15	A. Not that I recall.
16		16	Q. Approximately, how much time
17		17	passed, from the time you left the first
18	,	18	time to drop off your vehicle and return
19		19	to the scene?
20		20	A. Minutes.
21		21	Q. Approximately what time was
22		22	it?
23		23	A. It was approximately 8:30,
24		24	8:35, somewhere around there. I don't
]-,	the precinct.	25	know.
	162	120	164
1	wayer g	1	Talt
2	Q. Approximately, how much time	2	Q. Is it fair to say it was dark
3	passed from the time you left the scene	3	out?
4		4	A. Yes.
5		5	Q. Were there any stop lights
6		6	MR. GERMANO: Withdrawn.
7	north of the parkway. We drove directly	7	Q. Were there any street lights
8	there, dropped the car, went directly	8	in or around the area where the stop
, 9	back, picked up the car, and went right	9	occurred?
10	back to the precinct.	10	A. There were lights on the
11	Q. When you arrived at the scene	11	parkway.
12	the initial time, did you do any	12	Q. Specifically, within that
13	investigation in and around the scene?	13	region where it occurred, do you recall
14	A. Alls I did was talk to my	14	seeing any street lights?
15	partner.	15	A. I don't recall seeing them,
16	Q. It is fair to say you never	16	but there are street lights, road lights.
17	looked for contraband in or around the	17	Q. Approximately, what time did
18	blue Cadillac?	18	you return to the precinct with the
19	A. Yes. I did not.	19	Cadillac?
	Q. When you arrived back at the	20	A. Approximately 8:40 p.m.
1	scene the second time, who was there, if	21	Q. Where did you place the
22	anybody?	22	vehicle, park the vehicle?
23	A. There were marked police cars,	23	A. In the back lot of the
24	but I don't recall who.	24	precinct.
1	_	1	•
25	Q. Were there more than two	25	Q. What did you do once you

GONZALEZ -V- COUNTY OF SUFFOLK CHRISTOPHER TALT 165 167 1 Talt 1 Talt returned to the precinct after parking the 2 2 secured the money and the -- the money and vehicle? 3 3 the drugs, along with my firearm, and then Α. 4 I entered the detective squad 4 I entered interview room 129A with Kenny room. 5 5 Lazo where he was lodged. 6 Q. Who was in the detective squad 6 Q. At no point in time, up until 7 room, if anybody? you entered room 129A, did you learn that 7 Detective Sergeant Koerber, Α. 8 Mr. Lazo was hit by flashlights? 8 and Officer Link. 9 9 Α. No. Q. Did you have any conversations 10 Q. Was that the first time you 10 11 with either officer? 11 saw Mr. Lazo, did you see him at any other Α. Yes. 12 12 point in time prior to being in interview Q. 13 Did you have a conversation 13 room 129A? with Detective Sergeant Koerber? 14 A. 14 If you consider me seeing him) Α. Yes. 15 15 while he was operating a vehicle not Q. 16 What conversation did you have 16 knowing who he was, then it is not the with him? 17 first time. The first time that I come 17 18 Α. I believe I first spoke to 18 face to face with Mr. Lazo, is in the Officer Link. Officer Link turned over to 19 19 interview room 129A. myself and partner a clear plastic bag 20 20 Did you see him pass by you at that he recovered from Kenny Lazo, while 21 21 any point in time while you were at the walking him into the precinct, that 22 22 precinct before you went into interview contained 12 individual packages of 23 23 room 129A? cocaine, powdered cocaine, along with 24 24 Α. I don't think so. money that he recovered from Kenny Lazo's 25 25 Q. Were you involved in any of 166 168 Talt 1 1 Talt 2 pants. 2 the booking procedures? 3 Q. Again, the question was what 3 Α. Yes. 4 conversation did you have with Detective Q. 4 How were you involved? Sergeant Koerber at that time? 5 5 When I entered the room, I 6 At that point, I didn't have 6 entered the room to start the arrest one. I had a conversation with Link. 7 7 process. Q. 8 When was the first 8 Q. When you entered that room conversation you had with Detective 9 9 what observations did you make of Sergeant Koerber? 10 Mr. Lazo? 10 Immediately after I spoke with Α. 11 11 Α. He was very angry. Link. 12 12 Q. How did he express that he was 13 Q. What conversation did you have 13 angry? with Detective Sergeant Koerber? 14 14 Α. He kept cursing very loud. 15 I advised him that Kenny Lazo 15 Q. What was he saying? 16 was under arrest at the Third Precinct by 16 Α. Fuck, shit, fuck. Constant us, my partner and I, and that he is our 17 17 fucking and shiting. At the same time, 18 prisoner. while he was doing that, his left hand was 18 19 Q. Did you have any further 19 handcuffed the -- he was sitting in a conversations with Officer Link at that 20 chair that has handcuffs connected to a 20 21 time? 21 desk where I was processing him and he Α. 22 Gave me the evidence, no. 22 kept ripping the handcuff away from the 23 Q. At this point in time, where 23 desk. One hand is in a cuff. One hand is 24 did you go next? 24 attached to a ring which is affixed to the I went into our office. I 25 25 desk. He just keeps ripping his hand away

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•	00112	169		CHRISTOPHER T/	
•	1	Talt		171	
	2	as he is screaming and cursing.	1 2	Talt Q. You never photographed	
	-	Q. With respect to Mr. Lazo's	3	Q. You never photographed Mr. Lazo?	
	1	behavior, did you draw any conclusions?	4	A. No.	
	5	A. He was angry. And then he	5	Q. While you were in the	
	6	switched he was upset with he said he	6	interview room with Mr. Lazo, did any	
	7	didn't want to go to jail.	7	other officer come into that room? By	
	8	Q. So the fact that he	8	officer I am including sergeants,	
į	9	transitioned from anger to feelings of	9	detectives, et cetera?	
	10	upset-ness, did that behavior appear to be	10	_	
	11	bizarre at any point?	11	A. Prior to anyone coming in the room, he did calm down a little bit and he	
	12	MR. DUNNE: Whatever that	12	asked me for some water. So I exited the	
	13	means. But go ahead and	13	room and I got him two styrofoam cups of	
	14	answer it.	14	water.	
,	15	A. Most people who get caught	15	Q. Did you see any other officer	
	16	doing something don't want to go to jail.	16	enter that room at that time?	
	17	No one wants to go to jail. So he was	17	A. No.	
	18	angry and upset at the same time because	18	Q. So as far as you know you were	
-	19	he knew he was in a lot of trouble.	19	the only one that had contact with him in	
	20	Q. My question is, did that	20	that room at that time?	
	21	behavior, did it exhibit did the	21	A. Yes.	
	22	behavior that Mr. Lazo exhibited to you	22	Q. After you got two cups of	
1	23	appear to be, how would you characterize	23	water, what happened?	
	24	that behavior?	24	A. I got two styrofoam cups of	
,	_	A. Typical. He is upset that he	25	water. I immediately returned to the	
1		170		172	
ı	1	Talt	1	Tait	
	2	got arrested and he is angry about it and	2	interview room. I placed the two cups of	
	3	he is carrying on, and I am trying to calm	3	water on the corner of the desk where	
	4	him down.	4	Mr. Lazo was sitting. He was calming	
	5	Q. How did you try and calm him down?	5	down. He took with his right hand which	
	6		6	was not cuffed, he reached over and took	
	7 8	The same same as well	7	one of the cups and drank from the cup and	
İ	9	relax. We have some things we have to do here.	8	placed the cup back on the desk.	
1.	10	Q. What things did you have to	9	Q. Then what happened?	
- 1	11	do?	10	A. That is when he just, he was	
	2	A. This is just the start of an	11	just staring at the wall in front of him,	
- 1	13	arrest. I am going to advise Mr. Lazo of	12	and that is when Detective Sergeant	
ł	4	his rights. I am going to do an arrest	13	Koerber entered the room.	
	5	worksheet, process the arrest, process the	14	Q. For approximately how long was	
	6	evidence, fingerprint Mr. Lazo, photograph	15	he in that position before Detective	
- 1	7	Mr. Lazo.	16	Sergeant Koerber entered the room? A. Just started Seconds Ho	
1	8	Q. What did you do?	17	" Just Started: Seconds, Me	
	9	A. I tried to calm him down by	18 19	drank the water. He put the cup down. He	
-		saying calm down. Relax, calm down. He	20	was looking straight ahead. The sergeant	
ı		kept yelling, cursing. The fuck, the	21	walked in the room. It was immediate. Q. At any point in time did you	
2	2	shit. I don't know want to go to jail.	22	The same of the same you	
2		Q. Did you fill out any of the	23	contact a supervisor or anybody else about Mr. Lazo's behavior before you went and	

24

25

paperwork?

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)

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23

24

25

Did you fill out any of the

I never got started.

Mr. Lazo's behavior before you went and

retrieved the water for him?

24

25

I believe it was some bruising

on the right side of his face.

001	TALET V COLINITY OF SUFFOIK	d 01/03/13	
GUN	ZALEZ -V- COUNTY OF SUFFOLK 177	T	CHRISTOPHER TAL
1	Talt		
2	A C K N O W L E D G M E N T		
3	ACKROWLEDGHENI	1	179
3	STATE OF NEW YORK)	2	CERTIFICATE
ľ	STATE OF NEW YORK	3	STATE OF NEW YORK)
5	COUNTY OF)	4	1 55.:
6	, , , , , , , , , , , , , , , , , , ,	5	COUNTY OF NASSAU)
7	I, CHRISTOPHER TALT, hereby certify	6	
8	that I have read the transcript of my	7	I, JUDY GROB, a Notary Public
9	testimony taken under oath in my deposition of	a	within and for the State of New York, do
10	May 3, 2011; that the transcript is a true,	9	hereby certify:
11	complete and correct record of my testimony,	10	. That CHRISTOPHER TALT, the
12	and that the answers on the record as given by	11	witness whose deposition is hereinbefore
13	me are true and correct.	12	set forth, was duly sworn by me and that
14	me are trac and correct.	13	such deposition is a true record of the
15		14	testimony given by such witness.
16		15	I further certify that I am not
17	CHRISTOPHER TALT	16	related to any of the parties to this
18	SINGS OF HEICHALL	17	action by blood or marriage; and that I
19		18	am in no way interested in the outcome
20	Signed and subscribed to before	19	of this matter.
~~	me, this day	20	IN WITNESS WHEREOF, I have
21	of , 2011.	21	hereunto set my hand this 3rd day of
-'	- · · · · · · · · · · · · · · · · · · ·	72	Мау, 2011.
22		43	
		24	******
23		25	JUDY GROB
1	Notary Public, State of New York	1	
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24			
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CHRISTOPHER TALT - 5/19/11

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REALTIME REPORTING, INC. 124 East Main Street Suite 202 Babylon, New York 11702 Phone: (516) 938-4000 Fax: (631) 983-8938

GONZALEZ -V- COUNTY OF SUFFOLK • 196 2 APPEARANCES: ı 2 UNITED STATES DISTRICT COURT FREDERICK K. BREW INGTON, Esq. EASTERN DISTRICT OF NEW YORK Attorneys for PlaintIff PATRICIA GONZALEZ and JENNIFER GONZALEZ, individually and as co-administrators of the Estate of KENNY LAZO, 5 556 Peninsula Boulevard Hempstead, New York 11550 - against -COUNTY OF SUFFOLK, SUFFOLK POLICE DEPARTMENT, POLICE COMMISSIONER RICHARD DORMER, in his individual and official capacity, POLICE 7 BY: WILLIAM GERMANO, JR., ESQ. COUNTY OF SUFFOLK, SUFFOLK POLICE DEPARTMENT, POLICE COMMISSIONER RICHARD DORMER, in his individual and official capacity, POLICE OFFICER JOHN NEWTON, in his individual and official capacity, POLICE OFFICER JOHN NEWTON, in his individual and official capacity, POLICE OFFICER WILLIAM JUDGE, in his individual and official capacity, POLICE OFFICER WILLIAM JUDGE, in his individual and official capacity, POLICE OFFICER JOSEPH LINK, in his individual and official capacity, COUNTY OF SUFFOLK OFFICE OF DISTRICT ATTORNEY, SUFFOLK COUNTY DISTRICT ATTORNEY THOMAS SPOTA, in his individual and official capacity, ASST. DISTRICT JOHN B. COLLINS, in his individual and official capacity, and "JOHN AND JANE DOES 1-10" representing as yet unknown and unidentified members of the Office of Suffolk County District Attorney (all in their individual and official capacities as employees of the Office of Suffolk County District Attorney),

Defendants. CHRISTINE MILAFI 10 10 Attorneys for Defendants 11 11 100 Veterans Memorial Highway 12 12 Hauppauge, New York 13 14 13 BY: RICHARD T. DUNNE, ESQ. 15 14 16 15 ALSO PRESENT: 17 16 SCHOENFELD, SCHOENFELD & PINCUS, P.C. 18 17 Attorneys for Plaintiff 19 100 Federal Court Plaza Central Islip, New York 20 18 999 Walt Whitman Road 21 May 19, 2011 10:10 a.m. 19 Melville, New York 11747 22 (Continued) 20 BY: DAVID A. PINCUS, ESQ. 23 REALTIME REPORTING, INC. 124 East Main Street, Suite 202 Babylon, New York 11702 516-938-4000 21 24 22 JAMES SCIMONE www.realtimereporting.com 23 JOSEPH LINK 24 BILLY JUDGE 25 JOHN NEWTON 197 199 UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK 2 CHRISTOPHER TALT, PATRICIA GONZALEZ and JENNIFER GONZALEZ,, 3 as a witness, having been first duly individually and as co-administrators of the Estate of KENNY LAZO, sworn by a Notary Public, was examined 5 Plaintiffs, and testified as follows: - against -COUNTY OF SUFFOLK, SUFFOLK POLICE DEPARTMENT, **EXAMINATION BY** POLICE COMMISSIONER RICHARD DORMER, In his 7 MR. GERMANO: 8 individual and official capacity, POLICE OFFICER JOHN NEWTON, in his individual and 8 Q. Good morning. official capacity, POLICE OFFICER JAMES) A. Good morning. SCIMONE, in his individual and official capacity, POLICE OFFICER WILLIAM JUDGE, in his 10 We are going to continue the Individual and official capacity, POLICE OFFICE CHRISTOPHER TALK, in his individual and 11 deposition that we started a couple of official capacity, POLICE OFFICER JOSEPH LINK, 12 weeks ago. I am sure you recall the 12 in his individual and official capacity, COUNTY OF SUFFOLK OFFICE OF DISTRICT ATTORNEY, 13 ground rules since we have been doing this SUFFOLK COUNTY DISTRICT ATTORNEY THOMAS SPOTA, 14 for a pretty long time now. in his individual and official capacity, ASST. DISTRICT JOHN B. COLLINS, in his individual 15 I believe we left off when you and official capacity, and "JOHN AND JANE 16 were inside the precinct with Mr. Lazo, is 15 DOES 1-10" representing as yet unknown and unidentified members of the Office of Suffolk 17 that correct? County District Attorney (all in their 16 18 individual and official capacities as A. employees of the Office of Suffolk County 19 In the last conversation. I District Attorney), Defendants. 20 think we were talking about was you went 21 to retrieve water for Mr. Lazo, is that 22 correct? 21 Continued Examination Before Trial 23 A. 22 of the Defendant, CHRISTOPHER TALT, pursuant I don't recall exactly where 23 to Notice, Before a Notary Public of the State 24 we left off. 24 of New York. 25 25 Let's start from the point in

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CHRISTOPHER TAL

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time when Mr. Lazo was settled in the interview room. Okay?

A. Okay.

Q. Who brought Mr. Lazo into the interview room?

A. Officer Link.

Q. From the time Mr. Lazo was brought into the interview room, what conversation, if any, did you have with Mr. Lazo at the precinct?

A. When I walked into the room he was upset and angry and we were not, at first, having a real conversation. He was yelling. With his left hand he was being cuffed to the table. He was yelling, continuously cursing fuck, shit, fuck, shit, while yanking his cuffs, his hand away from the table. I was trying to get him to calm down. I was telling him to calm down. He said to me that he didn't want to go to jail. He later said to me that he was sorry that he fought with the officers. He started cursing again. The same, fuck, shit curses.

Talt
Again, I was trying to calm
him down, which he did calm down. That is
when he asked me for some water.

Q. Did you see, prior to that interaction with Mr. Lazo, did you see Mr. Lazo in the precinct at any other time?

A. No.

Q. Was the handcuff that Mr. Lazo was held by, you indicated that it was attached to a table?

A. Yes.

Q. How big was the room?

A. It's an interview room. It's approximately 8 feet by 8 feet.

Q. How big is the table?

A. A regular size desk. Smaller than this desk here. Probably about this big.

Q. Is that about 3 or 4 feet?

A. Yes.

Q. Was the desk pushed against a wall or anything?

A. The layout of the room is

Talt

about 8 feet, by 8 feet. There is a desk.
When you step into the room the desk is to
your left flush up against the wall and
the far left corner of the room. At the
end of the desk is a chair for the
prisoner to sit in.

Q. That chair would be on the right side of the desk?

A. If you are looking at the desk it would be on the left side, yes. There are handcuffs that are bolted into the desk that come off the side of the desk where Mr. Lazo was sitting in his chair and his left hand was cuffed, one set of cuffs, left-hand cuffed, the other cuff is bolted to the desk.

Q. Is the table or desk in any way bolted to the floor?

A. No.

Q. Is it in any way bolted to the wall?

A. No. There is another chair for the detective to sit in to conduct the interview.

Talt

Q. That would be on the opposite end of the table?

A. It would be at the front of the desk, typical desk. And there is the door that you step in, one door in and one door out. That door exits to the detective squad room.

Q. In order to get into the interview room, is the only path through the detective squad room?

A. Yes.

Q. When you were with Mr. Lazo in the interview room --

A. Just one more, there is a window in that room for viewing.

Q. What does it view?

A. You can see in to the interview room.

Q. But from the interview room you cannot see into the detective squad room, correct?

A. It actually goes to a different room, to a conference room that window. It's there for viewing of

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CHRISTOPHER TAL

sometimes narcotics prisoners.

Talt

- Q. Was anybody in the detective squad room, that you knew of, while you were with Mr. Lazo in the interview room?
 - A. Yes.
 - Q. Who was that?
- A. Well, I can't say who was actually in the squad room while I was in the room because they could have left, but I recall a few people that were working. Detective Sergeant Koerber was working, he was the supervisor during that tour. Police officer, at the time, Zambitto, Z-A-M-B-I-T-T-O. Detective O'Leary was working, but again I don't know if they were actually in the room while I was in the interview room, but they were working.
- **Q.** Do you know if they were in the precinct at the time you were with Mr. Lazo?
 - A. No, I don't know.
- **Q.** In the viewing room, do you recall if anyone was in that room?
 - A. No.

Q.

Talt No you don't recall ---

- A. It's a conference room where you can view. I don't recall -- I don't know, I shouldn't say I don't recall, but there was no reason for anyone to be in there looking in.
- **Q.** For approximately how long did you interact with Mr. Lazo in the interview room?
 - A. Less than five minutes.
- **Q.** During that period of time, did any other officer, or personnel, enter that room?
- **A.** Eventually Detective Sergeant Koerber entered the room.
- **Q.** Did you have any conversations with Detective Sergeant Koerber at that point in time?
- A. I was present with him when he came in. He began to ask Mr. Lazo some basic questions of his pedigree.
- **Q.** Did you have any conversation up until that point with Detective Sergeant Koerber?

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- A. When Mr. Lazo didn't respond to any of the questions that he had asked, both Detective Sergeant Koerber and I saw a change in his behavior and that is when both of us agreed that he should get medical attention.
- **Q.** When Detective Sergeant Koerber first entered --

MR. GERMANO: Withdrawn.

- **Q.** What observations did you have of Mr. Lazo's physical attributes, if any, while you were in the interview room?
 - A. First he was very angry --
 - Q. I said physical attributes.
- A. He was moving his arm around. He had abrasions on the right side of his face.
 - Q. Anything else?
 - A. No.
- Q. When Detective Sergeant Koerber entered the room, did you point out the abrasions on Mr. Lazo's face?
 - A. No.
 - Q. Was it your responsibility to

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point out that Mr. Lazo had abrasions on his face to the detective sergeant?

- A. No, Detective Sergeant Koerber came in to interview Mr. Lazo to see if he had any pain or injury that he complained of, and the only visible marks that I recall were on the side of his face. They were clear for Detective Sergeant Koerber to see for himself.
- **Q.** When was the first point in time you observed the abrasions on Mr. Lazo's face?
 - A. When I walked into the room.
- **Q.** From the time that Mr. Lazo was subdued at the scene to that point in time, did you have any observation of Mr. Lazo?
 - A. No.
- **Q.** I think I recall you mentioned you obtained water for Mr. Lazo?
- A. Yes.
 - Q. When did that occur?
 - A. When he calmed down after his outburst of the cursing, and the

GONZALEZ -V- COUNTY OF SUFFOLK CHRISTOPHER TAL 208 210 1 Talt 1 Talt 2 apologizing, being upset that he was going 2 Q. At that point in time, did you to go to jail. He then calmed down and he 3 3 ask him any questions? asked me, can I have a drink of water. 4 4 I started to try to have a 5 Q. Detective Sergeant Koerber, 5 conversation with him. I don't recall was he in the room at that point in time? 6 what I said, but at that time, that is 6 7 Α. No, he had not come in yet. 7 when he stopped talking to me and was Q. 8 You left and went to retrieve 8 staring straight ahead. water for Mr. Lazo? 9 9 For approximately how long was Α. Yes. 10 10 he staring before Detective Sergeant Q. When you left, do you know if 11 Koerber entered the room? 11 any other officer entered the room? 12 12 Α. Right away. A. 13 No. 13 Q. What happened when Detective 14 Q. No you don't know? Sergeant Koerber entered the room? 14 Α. No. No officer entered the 15 15 He entered the room, he room. 16 started to ask Mr. Lazo basic pedigree 16 17 Q. Approximately how long after 17 questions, he was filling out an activity you returned with water, did Detective 18 log on him. Mr. Lazo did not respond to 18 19 Sergeant Koerber enter the room? 19 any of his questions and both Detective A. 20 I would say less than a 20 Sergeant Koerber and I, at that point, minute. 21 21 said we should get him medical attention. 22 Q. Did Mr. Lazo, from the time 22 Q. Do you know approximately how 23 you reentered the room with water, did you many questions were asked to Mr. Lazo? 23 24 have any conversation with Mr. Lazo? 24 No. It was quick. I don't 25 Α. No. 25 know how many. 209 211 1 Talt 1 Talt Q. 2 For approximately how long --Q. Would it have been less than 2 3 MR. GERMANO: Withdrawn. 3 five questions? Q. 4 Did you ask him any questions Α. 4 I don't recall. 5 when you reentered the room with water? 5 Q. At that point in time did you 6 Α. No. 6 have a conversation -- what other Q. 7 Did you notice that he was not 7 conversation, if any, did you have with speaking to you? 8 Detective Sergeant Koerber? 8 Yes. He was staring -- when I 9 9 We are going to call for walked into the room he was looking at the 10 medical, for an ambulance to come to the 10 11 wall straight ahead. I walked into the precinct for medical treatment. Detective 11 room and I placed the two styrofoam cups 12 Sergeant Koerber said to me that he was 12 of water on the left front corner of the 13 going to do that. 13 14 desk that we were both sitting at. 14 Q. At that point, what did you 15 When Mr. Lazo was staring off do, if anything? 15 at the wall in front of him what, if 16 16 Α. I stayed with Mr. Lazo. anything, did you do? 17 17 Did you have any radio He was looking straight ahead 18 communication with anybody while you were 18 when I walked in the room. He then went 19 19 staying with Mr. Lazo? to pick up one cup of water. Picked up a 20 20 Later on I did. I was in cup of water with his right hand, that was 21 21 radio contact with the dispatcher, but not handcuffed and he drank from that cup 22 22 this comes later. It comes when the of water. Then he put down, put the cup 23 ambulance is notified. I am on the radio 23 of water back on the desk. Again he was 24 directing Brentwood Legion Ambulance to

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looking straight ahead.

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the third squad area of the building so

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neck down?

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Α.

behind him.

Q.

Α.

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Q.

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Α. He's very heavyset. He's very round, overweight.

What happened next?

sitting there with Mr. Lazo, at the same

time he kind of slumps down in the chair

During that minute, did any

What was Mr. Lazo wearing?

He had -- he didn't have a

shirt on. He had boxer shorts on, socks.

What, if anything, did you

observe about Mr. Lazo's body from the

and his head falls back against the wall

other personnel enter the room?

Anything else?

No.

No.

About a minute later, as I am

Q. Did you notice if there was any marks on Mr. Lazo's body from the neck down?

Α. I didn't notice any.

Q. Did Mr. Lazo have any tattoos that you noticed?

Α. I don't recail.

During the point in time, that one minute or less that you were sitting with Mr. Lazo after Detective Sergeant Koerber left the room to get medical attention, did you try to provide any support to Mr. Lazo in any way?

Α. I was trying to have a conversation with him to get him to respond to me, and he didn't. No. He wasn't. At that point, there was no labored breathing. There was no sign of him needing anything from me other than he is staring straight ahead and he is not responding to my questions.

You said there was no

No. But I could see. He was

not breathing heavy. It was normal breathing. He was staring straight ahead.

Did his breathing change from any point in time when you first sat in the interview room with him until that

13 point in time? 14

Α. When I first came into the room, he was yelling and cursing and he was worked up, but I didn't see a change in actual breathing, no.

When Mr. Lazo slumped down Q. what, if anything, did you do?

He slumped down and at the same time his head went back and rested up against the wall behind him. I immediately grabbed his left arm that was handcuffed to the desk and shook it, trying to get a response from him and

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Talt there was no response.

Q. Was this, was the handcuff removed at that time?

At the same time I yelled to the detectives or anybody who was in the detective squad room alerting them to what was going on, that I needed a rush on rescue, at the same time, I uncuffed him. I uncuffed his left hand from the desk.

Did you yell anything other Q. than a rush was needed?

I don't recall my exact words but put a rush on rescue, again notifying them of the situation in the room. I don't recall exactly what medical terms I used, but I needed help.

When you uncuffed his hand, did he remain in the chair?

Α. Yes.

Q. What, if anything, happened next?

Α. Officer Broderick entered the room. He was in the building, in the precinct at the time when this happened.

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GONZALEZ -V- COUNTY OF SUFFOLK CHRISTOPHER TAL 216 218 1 1 Talt 2 He immediately entered the room. That is 2 did Officer Broderick attempt CPR? B-R-O-D-E-R-I-C-K. He entered the room 3 3 Yes, as that was starting 4 with me and the two of us placed Mr. Lazo 4 these other officers who were also in the on the floor of the interview room to 5 5 building at the time when this was begin CPR. 6 6 happening, they came into the room 7 When we laid him down on the 7 bringing in the equipment. 8 floor, we positioned him with his feet For approximately how long was 8 9 towards the door and his head towards the Officer Broderick conducting CPR before 9 back wall where there is that window that 10 10 the two other officers entered with the I had described earlier. 11 11 oxygen and the defibrillator? 12 Q. You said that you and Officer 12 I don't know exactly. It was 13 Broderick entered the room, did you leave quick. 13 the room? 14 Q. 14 Less than five minutes? Α. No. Officer Broderick entered 15 15 Α. It was less than a minute. the room. I never left the room. He 16 16 Again, I don't know what Officer entered the room when I called for the 17 Broderick, Zurl, and Friedrick, what their 17 assistance and he assisted me. 18 business was in the precinct at the time 18 19 Do you have, at that point in 19 of the incident, but they were all present 20 time, on April 12, 2008, did you have 20 in the building when this happened. training in CPR? 21 21 What, if anything, did you Α. 22 When I was a police officer, I observe next after they entered with the 22 23 had training in CPR. 23 oxygen and the defibrillator? Q. How long does that --24 They were using the oxygen, 24 MR. GERMANO: Withdrawn. 25 25 using a breathing mask. They also 217 219 1 Talt 1 Talt 2 Q. Do you get a license? 2 utilized the defibrillator. During that We have verified -- I was 3 3 time two other officers entered the room. certified through the state as an EMTD. 4 Officer Quesada, Q-U-E-S-A-D-A, and 4 but that has since expired. 5 officer Cotter, C-O-T-T-E-R. 5 Was that expired on April 12, Q. 6 For what purpose did those 6 Q. 2008? 7 7 officers enter the room, that you know of? Α. 8 Yes. 8 Α. They were administering aid Q. When did it expire? 9 9 also. I don't recall when it exactly Α. 10 10 Q. What kind of aid were they expired but it is -- when I was 11 administering? 11 transferred to the detective unit bureau, 12 12 They were using a breathing that is no longer included in the 13 mask, they were using the oxygen, at the 13 14 training. time the defibrillator was being used, 14 15 When you and Officer Broderick chest compressions were being done. That 15 placed Mr. Lazo on the floor what, if 16 is when, when they were administering the 16 anything, did you do next? 17 17 aid. That is when I was on the portable Almost immediately two other 18 18 radio inside the precinct directing the officers entered the room. Officer Zurl, 19 ambulance crew to come to a certain door 19 20 Z-U-R-L, and Officer Friedrick. 20 in the building to come in so they will be F-R-I-E-D-R-I-C-K entered the room. 21 21 able to render aid faster. 22 Officer Zurl came in carrying medical 22 Did the ambulance crew equipment. Oxygen, I believe, a 23 eventually show up? 23 defibrillator. 24 A. Yes. 24

Q.

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Q.

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Before they entered the room,

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Approximately, how long did it

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take the ambulance crew to arrive from the moment Officer Broderick left to retrieve the medical attention?

A. I don't understand the question.

Q. When Mr. Lazo first started to stare off and you and Detective Sergeant Koerber acknowledged that he needed medical treatment, how long did it take for the ambulance crew to arrive?

A. Detective Sergeant Koerber, approximately 8:55 p.m., he went to call for help, which he walked to the precinct desk and got on a direct line to the Third Precinct dispatcher. I believe rescue arrived at the precinct at approximately 9:05. Approximately ten minutes from when Detective Sergeant Koerber left the room to the ambulance crew being, arriving at the precinct.

Q. How do you know that Detective Sergeant Koerber walked to the desk to place the call?

A. I later learned that from

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Sergeant Koerber that that was the method he used. There a different ways,

obviously, we could call, we could get a radio, go through the dispatcher and the

dispatcher has to notify, the dispatcher notifies the ambulance. You could call

from a squad phone, but we have a direct line that goes straight to the precinct

dispatcher on the precinct desk.

Q. How far is the precinct desk from the interview room in terms of however you can lay that out?

A. You exit the detective squad room, you walk about ten steps, make a turn and you probably walk about 20-yards to the precinct desk.

Q. Do you know if any officers were at the precinct desk at or around that time?

A. The desk is always manned. There is always officers on the desk. I don't know who was there.

Q. Did you carry a portable radio on you when you were in the interview room

with Mr. Lazo?

A. I had a portable radio on my belt.

Q. Did Detective Sergeant Koerber have a portable radio on him when he entered the room?

A. No.

Q. Could you have contacted the precinct desk with the portable radio?

A. You can go direct with a person on the radio. It's either -- I would have went through the dispatcher that way. I would not go to the precinct desk.

Q. Are you capable of contacting the precinct desk with your portable radio?

A. Capable, yes.

Q. After the ambulance crew arrived what, if anything, did you do?

A. I stayed with the ambulance crew while they were administering aid to Mr. Lazo.

Q. How many people from the

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CHRISTOPHER TALT

ambulance crew were in the interview room?

A. I don't recall.

Q. Did the other four officers and Detective Sergeant Koerber and yourself remain in the room while the ambulance crew was administering aid?

A. No. Everyone would not be able to fit in the room. I was standing outside the room and some of the officers that were present, rendering aid, assisted the ambulance crew with the continuation of the aid.

Q. For approximately, how long did the ambulance crew remain at the precinct for?

A. Approximately 15 minutes.

Q. They administered aid for 15 minutes?

A. Yes.

Q. After 15 minutes what happened?

A. Mr. Lazo was brought outside the precinct into the ambulance, Brentwood Legion Ambulance. They placed him in the

7 of 11 sheets

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Α. Q. 24

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Were you in a solo car?

No.

No, I was with my partner, Α. 06/15/2011 10:28:09 AM

blocking of traffic or anything else like

You were not involved in the

later, other police officers had arrived at the hospital, and homicide detectives were notified of the situation.

Why did you remain in the room

I stayed with Mr. Lazo until

8 of 11 sheets

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for ten minutes?

Q.

A. I don't recall what officers were at the hospital.

Q. Did you have any contact with your partner while you were in the hospital?

A. Yes. When I exited the room and returned back to the precinct, I went back to the precinct with my partner.

Q. Did your partner remain in the vehicle while you were in the hospital?

A. No.

Q. Did he ever enter the trauma room?

A. I don't recall him being in the trauma room, no.

Q. How long did you remain in the hospital for?

A. I am not sure.

Q. How long did Detective Portella interview you for?

A. Approximately a half hour.

Q. How many times did he interview you?

A. I spoke to him, like I said, for approximately a half hour at the precinct. He later -- I spoke to him a couple of other times short at the precinct, and that was -- that is it.

Q. When did you have the couple of other short conversations?

A. While I was in the building with him.

Q. Was it in passing or a scheduled meeting?

A. In passing, while we were in the building.

9 of 11 sheets

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Did you have any conversations Q. with anybody else concerning your observations of Mr. Lazo or the incident with Mr. Lazo after you spoke to Detective Portella for that half hour? Α. No. Q. What time did you return -what time did you get back to the precinct after you left the hospital? Say approximately 10:30 p.m. Α.

interview with Detective Portella? I don't recall when I actually spoke to him. I worked late that night, obviously into the morning. Soon after I was at the precinct, I spoke to him, but I

When did you have the

233 Talt couldn't tell you when.

What questions did Detective Q. Portelia ask you?

I don't remember his exact questions. I recall laying out, as we have today, and the other day, the investigation, how this all transpired.

Do you recall if Detective Portella asked you if force was used on Mr. Lazo at any point in time?

No. I don't believe he asked me that. I was involved with the observations out on the street and then I was in the interview room with him. I don't recall his exact questioning, but I had no force. There was no force used by me.

Q. I understand. Did he ask you if you knew if force was used on Mr. Lazo?

Α. I don't recall. Q.

Did Detective Portella ask you what you observed, what injuries you observed on Mr. Lazo, if any?

Again, I don't recall the

supplementary report after you had the

If you just take a look at Plaintiff's Exhibit 2, which was previously marked and identified, you never indicated that there were abrasions on Mr. Lazo's face on this document, correct?

Α. I don't know. I have to review it.

No.

MR. GERMANO: No further questions.

20 **EXAMINATION BY** 21

MR. DUNNE: 22

Q. Could you clarify how the cars got to the precinct?

When I responded to the assist of the officers at the Southern State

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Parkway I parked on the side of -- on the 2 middle of the Southern State Parkway, in 3 my police vehicle. After I had spoke with 4 5 my partner, I transported, first 6

Mr. Lazo's vehicle that he was operating into the precinct, followed by my partner who was in his original vehicle.

When we got to the precinct, we dropped the Cadillac at the precinct. Immediately returned to pick up my vehicle. When we picked up my vehicle there were no police officers still at the scene, and then I drove my vehicle back to the Third Precinct.

MR. DUNNE: Thank you. (Time Noted: 11:09 a.m.)

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EXHIBIT R

From: ecf_bounces@nyed.uscourts.gov
To: nobody@nyed.uscourts.gov

Subject: Activity in Case 2:09-cv-01023-LDW-GRB Gonzalez et al v. County of Suffolk et al Terminated Case

Date: Wednesday, April 08, 2015 3:06:49 PM

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U.S. District Court

Eastern District of New York

Notice of Electronic Filing

The following transaction was entered on 4/8/2015 at 3:06 PM EDT and filed on 4/8/2015

Case Name:

Gonzalez et al v. County of Suffolk et al

Case Number:

2:09-cy-01023-LDW-GRB

Filer:

WARNING: CASE CLOSED on 04/08/2015

Document Number: No document attached

Docket Text:

ELECTRONIC ORDER. Jury Selection scheduled for April 13, 2015 is hereby adjourned without a date. Parties are directed to advise this Court within sixty (60) days of the date of this order of possible dates in July 2015 in which all parties are available for Jury Selection/Trial. IT IS HEREBY ORDERED that this case be Administratively Closed until such time that a new date is agreed upon by all parties. Ordered by Judge Leonard D. Wexler on 4/8/2015. (Russo, Eric)

2:09-cv-01023-LDW-GRB Notice has been electronically mailed to:

Frederick K. Brewington fred@brewingtonlaw.com, brewingtonlawdocs@yahoo.com, office@brewingtonlaw.com, precilla.lockett@brewingtonlaw.com

Stephen Lee O'Brien Stephen@obrienandobrienlaw.com, maryjayne@obrienandobrienlaw.com

Brian C. Mitchell brian.mitchell@suffolkcountyny.gov, Stacy.Martella@suffolkcountyny.gov, cheryl.darcangelo@suffolkcountyny.gov, courtalert@suffolkcountyny.gov, susan.flynn@suffolkcountyny.gov Gregory Calliste, Jr gregory.calliste@brewingtonlaw.com

Stephanie Michelle Platt stephanie.platt@brewingtonlaw.com, office@brewingtonlaw.com

2:09-cv-01023-LDW-GRB Notice will not be electronically mailed to:

EXHIBIT S

Case 2:09-cv-01023-JS-GRB Document 64 Filed 05/27/15 Page 1 of 2 PageID #: 1605

FREDERICK K. BREWINGTON

Attorneys and Counselors at Law

556 Peninsula Blvd., Hempstead, New York 11550 Phone: 516-489-6959 • Fax: 516-489-6958 <u>www.brewingtonlaw.com</u>

Frederick K. Brewington
Ira Fogelgaren
Gregory Calliste, Jr.

May 27, 2015

BY ECF ONLY

Honorable Leonard D. Wexler United States District Court Judge United States District Court Eastern District of New York Long Island Federal Courthouse 100 Federal Plaza Central Islip, New York 11722

RE: Gonzalez et al. v. County of Suffolk
Docket: 09-CV-1023 (LDW) (GRB)

Dear Judge Wexler:

We are the attorneys representing the Plaintiffs in the above referenced case. Pursuant to the Court's Order, we respectfully provide the Court with this office's trial schedule for consideration in setting trial date for the instant matter:

On Monday, June 1, 2015, I am scheduled to begin jury selection with trial immediately following in the matter: Joseph Ferlito, et. al. v. County of Suffolk, et.al., Docket No.: CV-06-5708 before the Honorable Denis R. Hurley, in the U.S. District Court, Eastern District of New York. It is anticipated that trial in the Ferlito matter will continue for two (2) weeks. Thereafter, I am scheduled to commence eight (8) trials in June and July. Those trials are both criminal and civil trials and include three trials which are now on the calendar before Your Honor. The last of those trials before Your Honor is on July 6, 2015, in the matter of Gail Grenzig, v. Sachem School District, Docket No.: CV-13-07278. Thereafter, on July 13, 2015, I am scheduled to begin jury selection in the matter of People v. Ronel Danzy, Docket No.: 2013 NA022732 before the Honorable Tricia M. Ferrell in the Hempstead District Court, Nassau County New York. It is anticipated that trial in the Danzy matter will continue for approximately eight days [trials don't start until after 11:00 a.m. and sometimes not until 2:00 p.m. each day].

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Honorable Leonard D. Wexler May 27, 2015 Page 2

For the month of August, I have a scheduled vacation as well as my annual obligation in the last week of August to the Malverne High School football program.

We have contacted the counsel for Defendants and their schedules pose challenges as well. The only window of time in July that seemed possible to us was around July 21, 2015, however, when conferring with Defense Counsel, they would run into witness availability concerns in the last week of July, specifically the 27th through the 31st.

Based on the foregoing, it is respectfully requested that we seek to try this case in October or the starting the third week of November.

Thank you for your consideration in granting this request.

Respectfully Submitted

FREDERICK K. BREWINGTON

CC: Stephen O'Brien, Esq. (By ECF only)
Brian Mitchell, Esq. (By ECF Only)

FKB.rw

EXHIBIT T

U.S. District Court Eastern District of New York (Central Islip) CIVIL DOCKET FOR CASE #: 2:09-cv-01023-JS-GRB

Gonzalez et al v. County of Suffolk et al Assigned to: Judge Joanna Seybert

Referred to: Magistrate Judge Gary R. Brown

Cause: 42:1983 Civil Rights Act

Date Filed: 03/12/2009 Jury Demand: Both

Nature of Suit: 440 Civil Rights: Other

Jurisdiction: Federal Ouestion

<u>Plaintiff</u>

Patricia Gonzalez

represented by Frederick K. Brewington

Law Offices of Frederick K.
Brewington
556 Peninsula Boulevard
Hempstead, NY 11550
516-489-6959
Fax: 516-489-6958
Email: fred@brewingtonlaw.com

LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Gregory Calliste, Jr.

Law Offices of Frederick K.
Brewington
556 Peninsula Boulevard
Hempstead, NY 11550
(516) 489-6959
Fax: (516) 489-6958
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Guy William Germano

Germano & Cahill, P.C.
4250 Veterans Memorial Highway
Suite 275
Holbrook, NY 11741
631-588-8778
Fax: 631-588-2550
Email:
gwg@employmentlawyernewyork.com
TERMINATED: 03/19/2012
ATTORNEY TO BE NOTICED

Stephanie Michelle Platt

Law Offices of Frederick K. Brewington 556 Peninsula Boulevard

Hempstead, NY 11550 (516)489-6959
Fax: (516)489-6958
Email: stephanie.platt@brewingtonlaw.com TERMINATED: 04/17/2015
ATTORNEY TO BE NOTICED

Plaintiff

Jennifer Gonzalez

individually and as co-administrators of the Estate of Kenny Lazo

represented by Frederick K. Brewington

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Gregory Calliste, Jr.

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Guy William Germano

(See above for address)

TERMINATED: 03/19/2012

ATTORNEY TO BE NOTICED

Stephanie Michelle Platt

(See above for address)
TERMINATED: 04/17/2015
ATTORNEY TO BE NOTICED

V.

Defendant

County of Suffolk

represented by Brian C. Mitchell

Suffolk County Dept. of Law-County Attorney
100 Veterans Memorial Highway
P.O. Box 6100
Hauppauge, NY 11788
631-853-4055
Fax: 631-853-5833
Email:
brian.mitchell@suffolkcountyny.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Richard T. Dunne

Suffolk County Department of Law H. Lee Dennison Building

100 Veterans Memorial Highway Hauppauge, NY 11788 (631) 853-5678 Fax: (631) 853-5833 TERMINATED: 01/02/2013 LEAD ATTORNEY ATTORNEY TO BE NOTICED

Defendant

Suffolk Police Department

represented by Brian C. Mitchell

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Richard T. Dunne

(See above for address)

TERMINATED: 01/02/2013

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Defendant

Police Commissioner Richard Dormer

in his individual and official capacity

represented by Brian C. Mitchell

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Richard T. Dunne

(See above for address)

TERMINATED: 01/02/2013

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Defendant

Police Officer John Newton

in his individual and official capacity

represented by Brian C. Mitchell

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Richard T. Dunne

(See above for address)
TERMINATED: 01/02/2013
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Police Officer James Scimone

in his individual and official capacity

represented by Brian C. Mitchell

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Richard T. Dunne

(See above for address) TERMINATED: 01/02/2013 LEAD ATTORNEY ATTORNEY TO BE NOTICED

Defendant

Police Officer William Judge

in his individual and official capacity

represented by Brian C. Mitchell

(See above for address) LEAD ATTORNEY ATTORNEY TO BE NOTICED

Richard T. Dunne

(See above for address) TERMINATED: 01/02/2013 LEAD ATTORNEY ATTORNEY TO BE NOTICED

Defendant

Police Officer Christopher Talt

in his individual and official capacity

represented by Brian C. Mitchell

(See above for address) LEAD ATTORNEY ATTORNEY TO BE NOTICED

Richard T. Dunne

(See above for address) TERMINATED: 01/02/2013 LEAD ATTORNEY ATTORNEY TO BE NOTICED

Defendant

Polilce Officer Joseph Link

in his individual and official capacity

represented by Brian C. Mitchell

(See above for address) LEAD ATTORNEY ATTORNEY TO BE NOTICED

Richard T. Dunne

(See above for address) TERMINATED: 01/02/2013 LEAD ATTORNEY ATTORNEY TO BE NOTICED

Defendant

Suffolk Cty. DA Thomas Spota

in his individual and official capacity

represented by Brian C. Mitchell

(See above for address) LEAD ATTORNEY ATTORNEY TO BE NOTICED

Richard T. Dunne

(See above for address)

TERMINATED: 01/02/2013

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Stephen Lee O'Brien

O'Brein & O'Brein, LLP
168 Smithtown Boulevard
Nesconset, NY 11767
631-265-6660
Fax: 631-265-3991
Email:
Stephen@obrienandobrienlaw.com
ATTORNEY TO BE NOTICED

Defendant

Asst. District Atty. John B. Collins in his individual and official capacity

represented by Brian C. Mitchell

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Richard T. Dunne

(See above for address)

TERMINATED: 01/02/2013

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Stephen Lee O'Brien

(See above for address)
ATTORNEY TO BE NOTICED

Defendant

John and Jane Does 1-10

representing as yet unknown and unidentified members of the Office of the Suffolk County District Attorney (all in their individual and official capacities as employees of the Office of Suffolk County District Attorney)

<u>Defendant</u>

County of Suffolk Office of District Attorney

represented by Brian C. Mitchell

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Richard T. Dunne (See above for address)

TERMINATED: 01/02/2013 LEAD ATTORNEY ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
03/12/2009	1	COMPLAINT (<i>Rec</i> #29183) against William Judge, Christopher Talt, Joseph Link, Thomas Spota, John B. Collins, John and Jane Does 1-10, County of Suffolk, Suffolk Police Department, Richard Dormer, John Newton, James Scimone \$ 350 Disclosure Statement on Civil Cover Sheet completed -y., filed by Patricia Gonzalez, Jennifer Gonzalez. (Attachments: # 1 Civil Cover Sheet) (Serret, Liliana) (Entered: 03/12/2009)
03/12/2009		Summons Issued as to William Judge, Christopher Talt, Joseph Link, Thomas Spota, John B. Collins, John and Jane Does 1-10, County of Suffolk, Suffolk Police Department, Richard Dormer, John Newton, James Scimone. (Serret, Liliana) (Entered: 03/12/2009)
03/12/2009	2	SCHEDULING ORDER: Initial Conference set for 7/8/2009 11:00 AM in Courtroom 830 before Magistrate Judge E. Thomas Boyle. See order for further instructions. Counsel for Plaintiff(s) or Plaintiff pro se is obligated to serve a copy of this order on each defendant Ordered by Magistrate Judge E. Thomas Boyle on 3/12/2009. (Lundy, Lisa) (Entered: 03/12/2009)
03/13/2009		Case Ineligible for Arbitration (Bollbach, Jean) (Entered: 03/13/2009)
03/16/2009	3	SUMMONS Returned Executed by Patricia Gonzalez, Jennifer Gonzalez. County of Suffolk Office of District Attorney served on 3/12/2009, answer due 5/11/2009; William Judge served on 3/12/2009, answer due 5/11/2009; Christopher Talt served on 3/12/2009, answer due 5/11/2009; Joseph Link served on 3/12/2009, answer due 5/11/2009; Thomas Spota served on 3/12/2009, answer due 5/11/2009; John B. Collins served on 3/12/2009, answer due 5/11/2009; Suffolk Police Department served on 3/12/2009, answer due 5/11/2009; Richard Dormer served on 3/12/2009, answer due 5/11/2009; John Newton served on 3/12/2009, answer due 5/11/2009; John Newton served on 3/12/2009, answer due 5/11/2009; James Scimone served on 3/12/2009, answer due 5/11/2009; Christopher C
04/08/2009	4	ANSWER to 1 Complaint, by William Judge, Christopher Talt, Joseph Link, Thomas Spota, John B. Collins, County of Suffolk Office of District Attorney, County of Suffolk, Suffolk Police Department, Richard Dormer, John Newton, James Scimone. (Dunne, Richard) (Entered: 04/08/2009)
07/08/2009	5	Minute Entry for proceedings held before Magistrate Judge E. Thomas Boyle:Initial Pretrial Conference held on 7/8/2009, (Discovery due by 3/19/2010 fact discovery, 5/30/10 Experts., Proposed Pretrial Order due by 6/30/2010., Final Pretrial Conference by phone set for 7/9/2010 02:00 PM before Magistrate Judge E. Thomas Boyle.) The conference call should be made through the teleconference operator provided by your long-distance service *e.g., AT&T, MCI, Sprint). (So ordered by Mag. Judge Boyle on 7/8/09). (Lundy, Lisa) (Entered: 07/08/2009)

07/08/2009	<u>6</u>	Proposed Scheduling Order pursuant to Judge Boyle's July 8, 2009 Order by Patricia Gonzalez, Jennifer Gonzalez (Germano, Guy) (Entered: 07/08/2009)
07/09/2009	7	SCHEDULING ORDER: See order for further details Final Pretrial Conference by phone set for 7/9/2010 02:00 PM before Magistrate Judge E. Thomas Boyle. The conference call should be made through the teleconference operator provided by your long-distance service (e.g., AT&T, MCI, Sprint) Ordered by Magistrate Judge E. Thomas Boyle on 7/8/2009. (Lundy, Lisa) (Entered: 07/09/2009)
09/18/2009	8	Letter motion for extension of time to submit ESI agreement by Jennifer Gonzalez, Patricia Gonzalez (Attachments: # 1 Exhibit A) (Germano, Guy) (Entered: 09/18/2009)
09/21/2009		ENDORSED ORDER re 8 extension of time to comply with an agreement between the parties relating to the disclosure and discovery of electronically stored information ("ESI") to September 28, 2009. SO ORDERED. Ordered by Magistrate Judge E. Thomas Boyle on 9/21/2009. (Joy, Dolores) (Entered: 09/21/2009)
09/28/2009	9	STIPULATION regarding disclosure and discovery of ESI by Jennifer Gonzalez, Patricia Gonzalez (Germano, Guy) (Entered: 09/28/2009)
10/14/2009		ORDER re 9 Stipulation. SO ORDERED. Ordered by Magistrate Judge E. Thomas Boyle on 10/13/2009. (Joy, Dolores) (Entered: 10/14/2009)
12/29/2009	10	Letter MOTION to Compel by Jennifer Gonzalez, Patricia Gonzalez. (Attachments: # 1 Exhibit A - B) (Germano, Guy) (Entered: 12/29/2009)
12/30/2009	11	LETTER Motion For Extension Of Time To File A Response re 10 Letter MOTION to Compel filed by John B. Collins, County of Suffolk, County of Suffolk Office of District Attorney, Richard Dormer, William Judge, Joseph Link, John Newton, James Scimone, Thomas Spota, Suffolk Police Department, Christopher Talt. (Dunne, Richard) Modified on 1/4/2010 (Lundy, Lisa). (Entered: 12/30/2009)
01/04/2010		ENDORSED ORDER granting 11 Motion for Extension of Time to File response to letter motion 10 to January 8, 2010. Ordered by Magistrate Judge E. Thomas Boyle on 1/4/2010. (Joy, Dolores) (Entered: 01/04/2010)
01/08/2010	12	RESPONSE to Motion re 10 Letter MOTION to Compel with exhibit filed by John B. Collins, County of Suffolk, County of Suffolk Office of District Attorney, Richard Dormer, William Judge, Joseph Link, John Newton, James Scimone, Thomas Spota, Suffolk Police Department, Christopher Talt. (Attachments: # 1 Exhibit A) (Dunne, Richard) (Entered: 01/08/2010)
01/11/2010		SCHEDULING ORDER re 10, 12: A conference shall be held by telephone on January 13, 2010 at 3:30 p.m. Plaintiffs' counsel shall initiate the call and have all counsel on the line before connecting the court (631-712-5710). The conference call should be made through the teleconference operator provided by your long-distance service (e.g., AT&T, MCI, Sprint). Ordered by Magistrate Judge E. Thomas Boyle on 1/11/2010. Plaintiffs' counsel is directed to notify all counsel of this order upon receipt. (Joy, Dolores) (Entered: 01/11/2010)

01/13/2010	13	Minute Order. for proceedings held before Magistrate Judge E. Thomas Boyle; Status Telephone conference held on 1/13/10. The parties shall proceed on a dual track with respect to fact and expert discovery, which on the current schedule shall be completed by 5/30/10. Having failed to respond or object to the interrogatory requests served in September 2009, and the defendants having had more than ample opportunity to do so and having set forth no "good cause" for this failure the defendants have waived the right to object to said interrogatories and shall comply by 1/22/10. The plaintiff's letter motion to compel in all other respects is denied without prejudice to renewal upon completion of document production. The County defendants are directed to make a good faith effort to complete document production by 2/1/10.terminating 10 Motion to Compel; (So ordered by Mag. Judge Boyle on 1/13/10). (Lundy, Lisa) (Entered: 01/14/2010)
01/14/2010	14	Letter Motion to Compel the Court to so order a subpoena directed to the Suffolk County District Attorney's Office to produce documents, information, or objects related to this instant matter by Jennifer Gonzalez, Patricia Gonzalez (Attachments: # 1 Exhibit A and B) (Germano, Guy) Modified made letter request into a motion to compel on 1/15/2010 (Glueckert, Lisa). (Entered: 01/14/2010)
01/15/2010	15	RESPONSE to Motion re 14 MOTION to Compel filed by John B. Collins, County of Suffolk, County of Suffolk Office of District Attorney, Richard Dormer, William Judge, Joseph Link, John Newton, James Scimone, Thomas Spota, Suffolk Police Department, Christopher Talt. (Dunne, Richard) (Entered: 01/15/2010)
01/19/2010		ORDER re 14, 15. Since the subpoena sought is directed against a party to this action, the court will treat this as a pre-motion conference request. The parties shall appear for said conference on January 27, 2010 at 10:30 a.m. Ordered by Magistrate Judge E. Thomas Boyle on 1/19/2010. Plaintiff's counsel is directed to notify all counsel of this order upon receipt. (Joy, Dolores) (Entered: 01/19/2010)
01/27/2010		ENDORSED ORDER denying 14 Motion to Compel (see order dated 1/19/10). The demands for documents set forth in the annexed subpoena are deemed served on the County Attorney of Suffolk County with the latter's consent. Ordered by Magistrate Judge E. Thomas Boyle on 1/27/2010. (Joy, Dolores) (Entered: 01/27/2010)
03/17/2010		NOTICE of Hearing on Motion for summary judgment Motion Hearing set for 5/7/2010 10:30 AM in Courtroom 1040 before Senior Judge Thomas C. Platt. (McMorrow, Karen) (Entered: 03/17/2010)
03/22/2010	16	Letter MOTION to Compel, Letter MOTION for Sanctions by Jennifer Gonzalez, Patricia Gonzalez. (Attachments: # 1 Exhibit A-C) (Germano, Guy) (Entered: 03/22/2010)
03/23/2010	17	RESPONSE to Motion re 16 Letter MOTION to CompelLetter MOTION for Sanctions filed by John B. Collins, County of Suffolk, County of Suffolk Office of District Attorney, Richard Dormer, William Judge, Joseph Link, John

		Newton, James Scimone, Thomas Spota, Suffolk Police Department, Christopher Talt. (Dunne, Richard) (Entered: 03/23/2010)
03/24/2010		SCHEDULING ORDER re 16, 17: A telephone conference shall be held on March 26, 2010 at 1:30 p.m. Plaintiffs' counsel shall initiate the call and have all counsel on the line before connecting the court (631-712-5710). The conference call should be made through the teleconference operator provided by your long-distance service (e.g., AT&T, MCI, Sprint). Ordered by Magistrate Judge E. Thomas Boyle on 3/24/2010. Plaintiffs' counsel is directed to notify all counsel of this order upon receipt. (Joy, Dolores) (Entered: 03/24/2010)
03/26/2010		ELECTRONIC ORDER. The phone conference scheduled for March 26, 2010 at 1:30 p.m. is canceled. A conference shall be held on April 5, 2010 at 10:30 a.m. All counsel shall be present. Ordered by Magistrate Judge E. Thomas Boyle on 3/26/2010. Plaintiffs' counsel is directed to notify all counsel of this order upon receipt. (Joy, Dolores) (Entered: 03/26/2010)
04/05/2010	18	Minute Entry for proceedings held before Magistrate Judge E. Thomas Boyle:Status Conference held on 4/5/2010, (Discovery due by 9/30/2010.) Adjourned Oral argument 9/15/10 at 2:00 p.m (So ordered by Mag. Judge Boyle on 4/5/10). (Lundy, Lisa) (Entered: 04/05/2010)
04/26/2010	19	MOTION to Dismiss by John B. Collins, County of Suffolk, County of Suffolk Office of District Attorney, Richard Dormer, William Judge, Joseph Link, John Newton, James Scimone, Thomas Spota, Suffolk Police Department, Christopher Talt. (Attachments: # 1 Rule 56.1 Statement, # 2 Exhibit A, # 3 Exhibit B, # 4 Exhibit C, # 5 Exhibit D, # 6 Exhibit E, # 7 Exhibit F, # 8 Exhibit G, # 9 Exhibit H, # 10 Memorandum in Support) (Dunne, Richard) (Entered: 04/26/2010)
04/26/2010	20	RESPONSE in Opposition re 19 MOTION to Dismiss filed by Jennifer Gonzalez, Patricia Gonzalez. (Attachments: # 1 Declaration, # 2 Exhibit A-D, # 3 Exhibit E-J, # 4 Exhibit K-T, # 5 Exhibit U-CC, # 6 Exhibit DD-EE, # 7 Exhibit FF-II, # 8 Exhibit JJ, # 9 Exhibit KK-LL, # 10 Exhibit MM-NN, # 11 Exhibit OO, # 12 Exhibit PP-RR, # 13 Exhibit SS, # 14 Exhibit TT-UU, # 15 Memorandum in Opposition) (Dunne, Richard) (Entered: 04/26/2010)
04/26/2010	21	REPLY to Response to Motion re 19 MOTION to Dismiss filed by John B. Collins, County of Suffolk, County of Suffolk Office of District Attorney, Richard Dormer, William Judge, Joseph Link, John Newton, James Scimone, Thomas Spota, Suffolk Police Department. (Dunne, Richard) (Entered: 04/26/2010)
05/06/2010		NOTICE of Hearing on Motion 19 MOTION to Dismiss: CHANGE OF TIME Motion Hearing set for 5/7/2010 01:30 PM in Courtroom 1040 before Senior Judge Thomas C. Platt. (McMorrow, Karen) (Entered: 05/06/2010)
05/07/2010		Minute Entry for proceedings held before Senior Judge Thomas C. Platt:Motion Hearing held on 5/7/2010 re 19 MOTION to Dismiss filed by William Judge, County of Suffolk, James Scimone, Suffolk Police Department, John Newton, Richard Dormer, Thomas Spota, Joseph Link, Christopher Talt, John B. Collins, County of Suffolk Office of District Attorney. Motion argued. DECISION

		RESERVED. (Court Reporter Dom Tursi.) (McMorrow, Karen) (Entered: 05/10/2010)
06/23/2010	22	SCHEDULING ORDER: The final conference previously scheduled by telephone for July 9, 2010 at 2:00 p.m. with the undersigned is canceled. Ordered by Magistrate Judge E. Thomas Boyle on 6/23/2010. Plaintiffs' counsel is directed to serve a copy of this order on all counsel upon receipt. (Joy, Dolores) (Entered: 06/23/2010)
09/14/2010	23	Letter MOTION to Adjourn Conference oral arguments scheduled for September 15, 2010 by Jennifer Gonzalez, Patricia Gonzalez. (Germano, Guy) (Entered: 09/14/2010)
09/14/2010		ENDORSED ORDER granting 23 Motion to Adjourn Conference. Application is granted. The motion is deemed withdrawn without prejudice. All discovery shall be completed by 9/30/10. SEE order dated 4/5/10. A joint pre-trial order shall be filed on 10/28/10. The final conference will be held on 11/9/10 at 1:30 p.m. by phone. Plaintiffs' counsel shall initiate the call and have all counsel on the line before connecting the court (631-712-5710). The conference call should be made through the teleconference operator provided by your long-distance service (e.g., AT&T, MCI, Sprint). Ordered by Magistrate Judge E. Thomas Boyle on 9/14/2010. Plaintiffs' counsel is directed to notify all counsel of this order upon receipt. (Joy, Dolores) (Entered: 09/14/2010)
09/14/2010		ORDER withdrawing <u>16</u> Motion to Compel; withdrawing <u>16</u> Motion for Sanctions. SEE order dated 9/14/10. Ordered by Magistrate Judge E. Thomas Boyle on 9/14/2010. (Joy, Dolores) (Entered: 09/14/2010)
09/24/2010	24	Letter MOTION for Extension of Time to Complete Discovery by Jennifer Gonzalez, Patricia Gonzalez. (Germano, Guy) (Entered: 09/24/2010)
09/27/2010		ORDER granting 24 Motion for Extension of Time to Complete Discovery: All discovery shall be completed by December 31, 2010. The final conference previously scheduled for November 9, 2010 is adjourned to January 27, 2011 at 11:00 a.m., by telephone. So Ordered by Magistrate Judge E. Thomas Boyle on 9/27/2010. (Minerva, Deanna) (Entered: 09/27/2010)
12/20/2010	<u>25</u>	Joint MOTION for Extension of Time to Complete Discovery by Jennifer Gonzalez, Patricia Gonzalez. (Brewington, Frederick) (Entered: 12/20/2010)
12/21/2010		ENDORSED ORDER granting <u>25</u> Motion for Extension of Time to Complete Discovery; Application is granted. This is the final extension of discovery. all other discovery is certified as complete fact as well as expert except for the 4 depositions noted herein Scimone, Talt, Newton & Link Ordered by Magistrate Judge E. Thomas Boyle on 12/21/2010. (Lundy, Lisa) (Entered: 12/22/2010)
12/29/2010	<u>26</u>	Letter MOTION for Extension of Time to Complete Discovery and Expert Discovery by Jennifer Gonzalez, Patricia Gonzalez. (Germano, Guy) (Entered: 12/29/2010)
01/06/2011		SCHEDULING ORDER: re <u>26</u> Letter MOTION for Extension of Time to Complete Discovery and Expert Discovery filed by Patricia Gonzalez, Jennifer Gonzalez. A conference shall be held on January 13, 2011 at 10:00 a.m. Counsel

		shall be present. Ordered by Magistrate Judge E. Thomas Boyle on 1/6/2011. (Joy, Dolores) (Entered: 01/06/2011)
01/07/2011	27	Letter MOTION to Adjourn Conference by John B. Collins, County of Suffolk, County of Suffolk Office of District Attorney, Richard Dormer, William Judge, Joseph Link, John Newton, James Scimone, Thomas Spota, Suffolk Police Department, Christopher Talt. (Dunne, Richard) (Entered: 01/07/2011)
01/10/2011		ENDORSED ORDER granting <u>27</u> Motion to Adjourn Conference. Application is granted. The conference is adjourned to January 27, 2011 at 11:00 a.m. by phone. Ordered by Magistrate Judge E. Thomas Boyle on 1/10/2011. (Joy, Dolores) (Entered: 01/10/2011)
01/26/2011	28	SCHEDULING ORDER: The conference on January 27, 2011 is canceled. The order, dated December 21, 2010, is vacated. Discovery shall proceed on a dual track - expert and fact. All discovery shall be completed by April 30, 2011. A joint pre-trial order, consistent with Judge Platt's rules, shall be filed by May 31, 2011. The final conference is June 14, 2011 at 1:30 p.m. by phone. SEE order for further details. Ordered by Magistrate Judge E. Thomas Boyle on 1/26/2011. (Joy, Dolores) (Entered: 01/26/2011)
03/14/2011	29	ORDER granting in part and denying in part 19 Motion to Dismiss. SO ORDERED that Defts' motion for judgment on the pleadings is DENIED as to plaintiffs' municipal liability claim and GRANTED as to plaintiffs' claim for alternative municipal liability. Defts' motion for judgment on the pleadings as to plaintiffs' 42 U.S.C. §§ 1981 and 1985 claims is DENIED without prejudice to renew. Plaintiffs' request to amend their complaint is GRANTED to the extentset forth herein. Ordered by Senior Judge Thomas C. Platt on 3/14/2011. (Glueckert, Lisa) (Entered: 03/14/2011)
04/13/2011	30	AMENDED COMPLAINT against John B. Collins, County of Suffolk, County of Suffolk Office of District Attorney, Richard Dormer, John and Jane Does 1-10, William Judge, Joseph Link, John Newton, James Scimone, Thomas Spota, Suffolk Police Department, Christopher Talt, filed by Jennifer Gonzalez, Patricia Gonzalez. (Germano, Guy) (Entered: 04/13/2011)
04/21/2011	31	ANSWER to 30 Amended Complaint, by John B. Collins, County of Suffolk, County of Suffolk Office of District Attorney, Richard Dormer, William Judge, Joseph Link, John Newton, James Scimone, Thomas Spota, Suffolk Police Department, Christopher Talt. (Dunne, Richard) (Entered: 04/21/2011)
04/28/2011	32	Joint MOTION for Extension of Time to Complete Discovery by Jennifer Gonzalez, Patricia Gonzalez. (Germano, Guy) (Entered: 04/28/2011)
05/16/2011		ENDORSED ORDER granting 32 Motion for Extension of Time to Complete Discovery. Application is granted. All discovery is extended to July 31, 2011. A joint pre-trial order, consistent with Judge Platt's individual rules, shall be filed by August 31, 2011. The final conference is adjourned to September 19, 2011 at 11:00 a.m. by phone. Plaintiff's counsel shall initiate the call and have all counsel on the line before connecting the court (631-712-5710). The conference call must be made through the teleconference operator provided by your long-

		distance service (e.g., AT&T, MCI, Sprint). Ordered by Magistrate Judge E. Thomas Boyle on 5/16/2011. (Joy, Dolores) (Entered: 05/16/2011)
08/01/2011	<u>33</u>	Joint MOTION for Extension of Time to Complete Discovery by Jennifer Gonzalez, Patricia Gonzalez. (Germano, Guy) (Entered: 08/01/2011)
08/02/2011		ENDORSED ORDER granting 33 Motion for Extension of Time to Complete Discovery. Discovery has been extended on at least four prior occasions. This action commenced in March 2009approximately two-and-a-half years ago. Discovery is extended to 12/1/11. There will be no further extensions. This includes any expert discovery. See Order dated 1/26/11. A joint pre-trial order, consistent with Judge Platt's rules, shall be filed by 1/3/12. The final conference shall be held in 1/11/12 at 11:00 a.m. by phone. Ordered by Magistrate Judge E. Thomas Boyle on 8/2/2011. (Bacchus, Michael) (Entered: 08/02/2011)
10/04/2011	34	Letter MOTION to Quash <i>subpoena/notice of depositions</i> by John B. Collins, County of Suffolk, County of Suffolk Office of District Attorney, Richard Dormer, William Judge, Joseph Link, John Newton, James Scimone, Thomas Spota, Suffolk Police Department, Christopher Talt. (Attachments: # 1 Exhibit A, B, C and D) (Dunne, Richard) (Entered: 10/04/2011)
10/05/2011	35	MEMORANDUM in Opposition re <u>34</u> Letter MOTION to Quash subpoena/notice of depositions filed by All Plaintiffs. (Attachments: # <u>1</u> Exhibit A-B) (Germano, Guy) (Entered: 10/05/2011)
11/10/2011	36	ORDER denying 34 Motion to Quash: The Court finds the County's motion to quash to be premature at this time since discovery has yet to be completed. If plaintiffs are unable to obtain the information they seek from other sources and still wish to depose defendants Spota and Dormer after all fact discovery has been completed, the County may renew its request to have the deposition notices quashed. Accordingly, the County's motion to quash is denied without prejudice to renewal upon the completion of all fact discovery. So Ordered by Magistrate Judge E. Thomas Boyle on 11/10/2011. (Minerva, Deanna) (Entered: 11/10/2011)
11/18/2011		Magistrate Judge Gary R. Brown added. Magistrate Judge E. Thomas Boyle no longer assigned to case. (McMahon, Carol) (Entered: 11/18/2011)
11/18/2011	37	Letter requesting permission to file oversize letter motion or discovery motion accompanied by a memorandum of law by Jennifer Gonzalez, Patricia Gonzalez (Attachments: # 1 Exhibit A) (Germano, Guy) (Entered: 11/18/2011)
11/21/2011		ELECTRONIC ORDER: The request <u>37</u> is denied without prejudice to refiling as a "Motion." Ordered by Magistrate Judge Gary R. Brown on 11/21/2011. (Disbrow, Sandra) (Entered: 11/21/2011)
11/21/2011	38	Letter MOTION for pre motion conference and/or requesting permission to file oversize letter motion and/or discovery motion accompanied by a memorandum of law by Jennifer Gonzalez, Patricia Gonzalez. (Attachments: # 1 Exhibit A) (Germano, Guy) (Entered: 11/21/2011)
12/01/2011		ELECTRONIC ORDER granting 38 Motion to the extent that a telephone conference has been scheduled for 12/6/11 at 3:00 p.m. Plaintiffs' counsel shall

		initiate the call and have all parties on the line before connecting to the court at (631)712-5700. Any request to adjourn this conference must be electronically filed as a "Motion" and must include proposed alternative dates. Ordered by Magistrate Judge Gary R. Brown on 12/1/2011. (Disbrow, Sandra) (Entered: 12/01/2011)
12/06/2011	39	Minute Entry for proceedings held before Magistrate Judge Gary R. Brown: Counsel present via telephone. Status Conference held on 12/6/2011. Parties are to contact the Court within 10 days of the resolution of the matter in state court. The pretrial conference scheduled for 1/11/12 is adjourned without a date. (Brienza, Lauren) (Entered: 12/06/2011)
03/06/2012	40	NOTICE of Appearance by Gregory Calliste, Jr on behalf of All Plaintiffs (aty to be noticed) (Calliste, Gregory) (Entered: 03/06/2012)
03/06/2012	41	Letter regarding Grand Jury Minutes which are to be provided to Your Honor by Jennifer Gonzalez, Patricia Gonzalez (Attachments: # 1 Exhibit Order of Hon. H. Patrick Leis III, unsealing Grand Jury Minutes) (Calliste, Gregory) (Entered: 03/06/2012)
02/28/2013		SCHEDULING ORDER: A status conference is scheduled in courtroom 840 of the Long Island Courthouse on 3/22/2013 at 10:00 AM. Ordered by Magistrate Judge Gary R. Brown on 2/28/2013. (Brienza, Lauren) (Entered: 02/28/2013)
03/12/2013	42	NOTICE of Appearance by Brian C. Mitchell on behalf of John B. Collins, County of Suffolk, County of Suffolk Office of District Attorney, Richard Dormer, William Judge, Joseph Link, John Newton, James Scimone, Thomas Spota, Suffolk Police Department, Christopher Talt (aty to be noticed) (Mitchell, Brian) (Entered: 03/12/2013)
03/19/2013	43	Letter MOTION to Adjourn Conference by John B. Collins, County of Suffolk, Richard Dormer, William Judge, Joseph Link, John Newton, James Scimone, Thomas Spota, Christopher Talt. (Mitchell, Brian) (Entered: 03/19/2013)
03/21/2013		ELECTRONIC ORDER granting 43 Motion to Adjourn Conference. The conference scheduled for March 22 is ADJOURNED to April 1, 2013 at 10:00 AM in Courtroom 840 of the Long Island courthouse. Ordered by Magistrate Judge Gary R. Brown on 3/21/2013. (Buehler, Brian) (Entered: 03/21/2013)
04/01/2013	44	Minute Order for proceedings held before Magistrate Judge Gary R. Brown: Counsel present. Status Conference held on 4/1/2013. Discovery cut-off date is extended to 7/31/2013. Dft to submit letter brief re grand jury minutes by 4/9/2013. Plff's response due 4/12/2013. SO ORDERED. (Brienza, Lauren) (Entered: 04/01/2013)
04/09/2013	45	Letter <i>brief opposing release of grand jury minutes</i> by John B. Collins, County of Suffolk, Richard Dormer, William Judge, Joseph Link, John Newton, James Scimone, Thomas Spota, Christopher Talt (Attachments: # 1 Exhibit A) (Mitchell, Brian) (Entered: 04/09/2013)
04/12/2013	46	Letter motion in opposition to defendants letter brief opposing release of grand jury minutes by Jennifer Gonzalez, Patricia Gonzalez (Brewington, Frederick) (Entered: 04/12/2013)

06/20/2013	47	NOTICE of Appearance by Stephen Lee O'Brien on behalf of Thomas Spota (aty to be noticed) (O'Brien, Stephen) (Entered: 06/20/2013)
06/20/2013	48	NOTICE of Appearance by Stephen Lee O'Brien on behalf of John B. Collins (aty to be noticed) (O'Brien, Stephen) (Entered: 06/20/2013)
07/25/2013	49	Letter MOTION for Discovery to the Honorable Gary R. Brown to extend time to complete discovery after the Court renders a decision to Plaintiffs' motion to unseal the grand jury minutes by Jennifer Gonzalez, Patricia Gonzalez. (Calliste, Gregory) Modified on 4/3/2014 (Mahon, Cinthia). (Entered: 07/25/2013)
03/31/2014		ELECTRONIC ORDER granting <u>49</u> Motion for Discovery. The Court hereby extends the deadline to complete discovery (including expert discovery). This extended deadline will be set after the Court issues a decision regarding the discovery motion for grand jury minutes. Ordered by Magistrate Judge Gary R. Brown on 3/31/2014. (Lam, Joseph) Modified on 4/3/2014 (Mahon, Cinthia). (Entered: 04/01/2014)
04/23/2014	50	ORDER granting in part and denying in part <u>46</u> Motion to unseal Grand Jury minutes. For the reasons set forth in the attached order, plaintiffs' motion to unseal is granted in part, but only to the extent described herein, and is denied in all other respects. Within fourteen days of the date of this order, counsel for defendants shall provide counsel for plaintiffs with a copy of pages 5 through 52 of the grand jury minutes dated October 27, 2008, which pages encompass the testimony of Dr. Milewski, and the legal instructions provided to the grand jury immediately preceding its deliberations. In addition, at the request of plaintiffs' counsel, counsel for defendants shall provide copies of all exhibits utilized during the testimony of Dr. Milewski, or otherwise identify such exhibits if they have already been provided in discovery.
		The parties are further directed to appear at a conference before the undersigned on May 20, 2014, at 2:00 p.m., so that this matter may be fully prepared for trial. SO ORDERED. Ordered by Magistrate Judge Gary R. Brown on 4/23/2014. (Lam, Joseph) (Entered: 04/23/2014)
05/20/2014	<u>52</u>	Minute Order for proceedings held before Magistrate Judge Gary R. Brown:Status Conference held on 5/20/2014. Plff granted leave to depose dft Collins with the limitations as set forth on the record. Deposition limited to 90 minutes and shall take place in the next 30 days. Discovery will be concluded by 6/20/2014. Counsel for dfts to advise plff by 7/10/2014 of their intentions to move for summary judgment. Parties to take first step in summary judgment process or file a joint proposed pretrial order by 7/21/2014. (Posillico, Lauren) (Entered: 05/20/2014)
07/08/2014		Case reassigned to Judge Leonard D. Wexler. Judge Thomas C. Platt no longer assigned to the case. (Gapinski, Michele) (Entered: 07/08/2014)
07/17/2014	<u>53</u>	Letter by Thomas Spota (O'Brien, Stephen) (Entered: 07/17/2014)
07/22/2014	<u>54</u>	Letter in opposition to Defendants' Spota and Collins request to file a motion seeking summary judgment by Jennifer Gonzalez, Patricia Gonzalez (Brewington, Frederick) (Entered: 07/22/2014)

08/28/2014	<u>55</u>	NOTICE of Appearance by Stephanie Michelle Platt on behalf of All Plaintiffs (aty to be noticed) (Platt, Stephanie) (Entered: 08/28/2014)
09/10/2014	<u>56</u>	Letter Status Conference by Thomas Spota (O'Brien, Stephen) (Entered: 09/10/2014)
09/29/2014	<u>57</u>	Letter MOTION to Adjourn Conference currently scheduled for 10/09/14 to 10/02/14 at 11:00 a.m. by Jennifer Gonzalez, Patricia Gonzalez. (Brewington, Frederick) (Entered: 09/29/2014)
09/30/2014		ELECTRONIC ORDER granting <u>57</u> Motion to Adjourn Conference. Status Conference is hereby rescheduled for 10/2/2014 at 11:00 AM in Courtroom 940 before Judge Leonard D. Wexler. Ordered by Judge Leonard D. Wexler on 9/30/2014. (Russo, Eric) (Entered: 09/30/2014)
10/02/2014	58	Minute Entry for proceedings held before Judge Leonard D. Wexler: In camera Pre Motion Conference held on 10/2/2014. Plaintiff(s) represented by Frederick K. Brewington, Esq. Defendant(s) represented by Brian C. Mitchell, Esq. and Stephen Lee OBrien, Esq. Parties agree to the following briefing schedule as to Defendants' "Spota" and "Collins" Motion to Dismiss: motion papers shall be served by October 16, 2014; opposition papers shall be served by November 6, 2014; reply papers shall be served by November 17, 2014. In accordance with Judge Wexler's motion practice and rules, all papers shall be filed, via ECF, on the reply date of November 17, 2014 and the Movant is directed to send courtesy copies to chambers. Jury Selection is set for December 15, 2014 at 9:30 AM in Courtroom 940. Jury Trial will begin on December 15, 2014 at 1:30 PM in Courtroom 940 before Judge Leonard D. Wexler. Parties are advised of and given hard copies of Judge Wexler's Trial Rules. Proceedings concluded. (Russo, Eric) (Entered: 10/02/2014)
11/17/2014	<u>59</u>	Second MOTION to Dismiss by Thomas Spota. Responses due by 11/17/2014 (O'Brien, Stephen) (Entered: 11/17/2014)
11/17/2014	<u>60</u>	REPLY in Opposition, RESPONSE in Opposition re <u>59</u> Second MOTION to Dismiss, REPLY in Support filed by Thomas Spota. (O'Brien, Stephen) (Entered: 11/17/2014)
11/17/2014	61	RESPONSE in Opposition re 59 Second MOTION to Dismiss filed by Jennifer Gonzalez, Patricia Gonzalez. (Attachments: # 1 Rule 56.1 Statement Plaintiffs' Satement of Disputed Facts in Oppositon to Defendants' Motion for Summary Judgment, and Counter-Statment of Facts Pursuant to Local Rule 56.1, # 2 Declaration Declaration of Frederick K. Brewington in Support of Plaintiff's Memorandum of Law in Opposition to Defendants' Motion for Summary Judgment, # 3 Exhibit Brewington Declaration Exhibits A-G, # 4 Exhibit Brewington Declaration Exhibits Brewington Declaration Exhibit P, # 7 Exhibit Brewington Declaration Exhibit P, # 7 Exhibit Brewington Declaration Exhibit O) (Brewington, Frederick) (Entered: 11/17/2014)
12/04/2014	<u>62</u>	Letter moton to adjourn start of trial scheduled for 12/15/2014 by Jennifer Gonzalez, Patricia Gonzalez. (Brewington, Frederick) Modified on 12/5/2014 (Russo, Eric). (Entered: 12/04/2014)
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12/05/2014		ORDER granting 62 Motion to Continue. Jury Selection is hereby adjourned to 3/16/2015 at 9:30 AM in Courtroom 940. Trial will begin on 3/16/2015 at 1:30 PM in Courtroom 940 before Judge Leonard D. Wexler. No further adjournments will be granted. Ordered by Judge Leonard D. Wexler on 12/5/2014. (Russo, Eric) (Entered: 12/05/2014)
12/10/2014	<u>63</u>	Letter MOTION Requesting Adjournment of Trial by Jennifer Gonzalez, Patricia Gonzalez (Platt, Stephanie) Modified on 12/12/2014 (Russo, Eric). (Entered: 12/10/2014)
12/12/2014		ORDER granting 63 Motion to Continue. In light of Plaintiff's motion, Jury Selection is hereby adjourned to 4/13/2015 at 9:30 AM in Courtroom 940. Jury Trial will begin on 4/14/2015 at 9:30 AM in Courtroom 940 before Judge Leonard D. Wexler. No further adjournments will be granted. Ordered by Judge Leonard D. Wexler on 12/12/2014. (Russo, Eric) (Entered: 12/12/2014)
04/08/2015	Andreas and the second	ELECTRONIC ORDER. Jury Selection scheduled for April 13, 2015 is hereby adjourned without a date. Parties are directed to advise this Court within sixty (60) days of the date of this order of possible dates in July 2015 in which all parties are available for Jury Selection/Trial. IT IS HEREBY ORDERED that this case be Administratively Closed until such time that a new date is agreed upon by all parties. Ordered by Judge Leonard D. Wexler on 4/8/2015. (Russo, Eric) (Entered: 04/08/2015)
04/08/2015		ELECTRONIC ORDER terminating <u>59</u> Motion to Dismiss, without prejudice to renew. This motion is hereby terminated pending the scheduling of jury selection/trial, at which point the motion will be addressed by this Court before said trial. Ordered by Judge Leonard D. Wexler on 4/8/2015. (Russo, Eric) (Entered: 07/08/2015)
05/27/2015	<u>64</u>	Letter proving the Court with Plaintiffs' availability for trial by Jennifer Gonzalez, Patricia Gonzalez (Brewington, Frederick) (Entered: 05/27/2015)
11/08/2018	<u>65</u>	Letter MOTION requesting that this matter be restored to the Court's calendar so that the parties may discuss a trial date by Jennifer Gonzalez, Patricia Gonzalez (Brewington, Frederick) Modified on 11/9/2018 (Russo, Eric). (Entered: 11/08/2018)
11/09/2018		Case Reassigned to Judge Joanna Seybert. Judge Leonard D. Wexler no longer assigned to the case. Please download and review the Individual Practices of the assigned Judges, located on our <u>website</u> . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. (Russo, Eric) (Entered: 11/09/2018)
11/20/2018		NOTICE of Hearing on <u>65</u> MOTION to Reopen Case: Motion Conference set for Tue. 12/11/2018 at 11:00am in Courtroom 1030 before Judge Joanna Seybert. (Baran, Charles) (Entered: 11/20/2018)
12/11/2018	<u>66</u>	Minute Order for proceedings held before Judge Joanna Seybert: Motion Hearing held on 12/11/2018 re: 65 MOTION to Reopen Case filed by Patricia Gonzalez, Jennifer Gonzalez; granting 65 Motion to Reopen Case. Motion to be filed by 12/26/2018; Response by 1/9/2019 (25 page limit); Reply by 1/16/2019 (6 page limit). (Baran, Charles) (Entered: 12/11/2018)

12/24/2018	<u>67</u>	First MOTION to Dismiss for Lack of Prosecution or in the alternative for summary judgment, by Thomas J. Spota and by John B. Collins. (Attachments: # 1 Declaration in Support of defendants Spota's and Collins's motion to dismiss or in the alternative for summary judgment, # 2 Rule 56.1 Statement for defendants Spota and Collins, # 3 Exhibit A, # 4 Exhibit B, # 5 Memorandum in Support of defendants Spota's and Collins's Motion to Dismiss or in the alternative for Summary Judgment) (O'Brien, Stephen) (Entered: 12/24/2018)	
12/26/2018	<u>68</u>	Letter Advising Court that County will not be moving for Summary Judgment John B. Collins, County of Suffolk, County of Suffolk Office of District Attorney, Richard Dormer, William Judge, Joseph Link, John Newton, James Scimone, Thomas Spota, Suffolk Police Department, Christopher Talt (Mitch Brian) (Entered: 12/26/2018)	

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